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SHIRLEY B. PARRAGUIRRE, CLERK
BY Kristen M. Brown
KRISTEN M. BROWN DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- GLENFORD ANTHONY BUDD Defendant.	Case No. C193182 Dept No. XVIII	

SPECIAL VERDICT

(Mitigating Circumstances)

We, the Jury in the above entitled case, having found the Defendant, GLENFORD ANTHONY BUDD, Guilty of COUNT I - MURDER OF THE FIRST DEGREE (Dajon Jones, victim), COUNT 2 – MURDER OF THE FIRST DEGREE (Derrick Jones, victim), and COUNT 3 – MURDER OF THE FIRST DEGREE (Jason Moore, victim), designate that the mitigating circumstance or circumstances which have been checked or written in below have been established.

✓ The Defendant has no significant history of prior criminal activity.

✓ The murder was committed while the Defendant was under the influence of extreme mental or emotional disturbance.

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✓ The youth of the defendant at the time of the crime.

✓ The Defendant's diminished intelligence.

✓ The impact of the defendant's execution on his family members, including his mother, grandmother, brother and sisters Shermaine and Angel.

✓ The impact of the defendant's execution on his other family members, friends and loved ones.

✓ Any other mitigating circumstances.

The apology of the defendant

DATED at Las Vegas, Nevada, this 16th day of December, 2005.

Rachel Mahan
FOREPERSON

VER

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KRISTEN M. BROWN DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- GLENFORD ANTHONY BUDD, Defendant.	)	Case No. ~~C93182~~ C193182 Dept No. XVIII

SPECIAL VERDICT

(Aggravating Circumstance)

We, the Jury in the above entitled case, having found the Defendant, GLENFORD ANTHONY BUDD, Guilty of COUNT I - MURDER OF THE FIRST DEGREE (Dajon Jones, victim), COUNT 2 – MURDER OF THE FIRST DEGREE (Derrick Jones, victim), and COUNT 3 – MURDER OF THE FIRST DEGREE (Jason Moore, victim) designate that the following aggravating circumstance has been established beyond a reasonable doubt.

The murder was committed by a person who has, in the immediate proceeding, been convicted of more than one offense of murder in the first or second degree.

DATED at Las Vegas, Nevada, this 15th day of December, 2005.

Rachel Adner
FOREPERSON

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- GLENFORD ANTHONY BUDD, Defendant.	)	Case No. C193182 Dept No. XVIII

PENALTY VERDICT - COUNT 3 (Jason Moore, victim)

We, the Jury in the above entitled case, having found the Defendant, GLENFORD ANTHONY BUDD, Guilty of COUNT 3 - MURDER OF THE FIRST DEGREE (Jason Moore, victim), and having found that the aggravating circumstance or circumstances outweigh any mitigating circumstance or circumstances impose a sentence of,

_____ A definite term of 100 years imprisonment, with eligibility for parole beginning when a minimum of 40 years has been served.

_____ Life imprisonment, with eligibility for parole beginning when a minimum of 40 years has been served.

✓ Life imprisonment without the possibility of parole.

_____ Death.

DATED at Las Vegas, Nevada, this 16th day of December, 2005

Rachel Nelson
FOREPERSON

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SHIRLEY B. PARRAGUIRRE, CLERK
BY Kristen M. Brown
KRISTEN M. BROWN DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- GLENFORD ANTHONY BUDD, Defendant.	)	Case No. C193182 Dept No. XVIII

PENALTY VERDICT - COUNT 1 (Dajon Jones, victim)

We, the Jury in the above entitled case, having found the Defendant, GLENFORD ANTHONY BUDD, Guilty of COUNT I - MURDER OF THE FIRST DEGREE (Dajon Jones, victim), and having found that the aggravating circumstance or circumstances outweigh any mitigating circumstance or circumstances impose a sentence of,

_____ A definite term of 100 years imprisonment, with eligibility for parole beginning when a minimum of 40 years has been served.

_____ Life imprisonment, with eligibility for parole beginning when a minimum of 40 years has been served.

___✓___ Life imprisonment without the possibility of parole.

_____ Death.

DATED at Las Vegas, Nevada, this 16th day of December, 2005

Rachel Mabe
FOREPERSON

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SHIRLEY B. PARRAGUIRRE, CLERK
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KRISTEN M. BROWN DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- GLENFORD ANTHONY BUDD, Defendant.	Case No. C193182 Dept No. XVIII

PENALTY VERDICT - COUNT 2 (Derrick Jones, victim)

We, the Jury in the above entitled case, having found the Defendant, GLENFORD ANTHONY BUDD, Guilty of COUNT 2 - MURDER OF THE FIRST DEGREE (Derrick Jones, victim), and having found that the aggravating circumstance or circumstances outweigh any mitigating circumstance or circumstances impose a sentence of,

_____ A definite term of 100 years imprisonment, with eligibility for parole beginning when a minimum of 40 years has been served.

_____ Life imprisonment, with eligibility for parole beginning when a minimum of 40 years has been served.

✓ Life imprisonment without the possibility of parole.

_____ Death.

DATED at Las Vegas, Nevada, this 16th day of December, 2005

Rachel Mohan
FOREPERSON

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INST

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SHERYL LAMB, COUNTY CLERK
BY Kristen M. Brown
KRISTEN M. BROWN, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- GLENFORD ANTHONY BUDD, Defendant.	Case No. C193182 Dept No. XVIII

INSTRUCTIONS TO THE JURY

(INSTRUCTION NO. 1)

MEMBERS OF THE JURY:

It is now my duty as judge to instruct you in the law that applies to this penalty hearing. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

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INSTRUCTION NO. 2

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

INSTRUCTION NO. B

The trial jury shall fix the punishment for every person convicted of murder of the first degree.

INSTRUCTION NO. 4

The jury shall fix the punishment at:

(1) Life imprisonment without the possibility of parole:

(2) Life imprisonment with the possibility of parole, with eligibility for parole beginning when a minimum of 40 years has been served;

(3) Imprisonment for a definite term of 100 years, with eligibility for parole beginning when a minimum of 40 years has been served; or,

(4) Death.

INSTRUCTION NO. 5

Life imprisonment without the possibility of parole means exactly what it says, that the defendant shall not be eligible for parole.

Life imprisonment with the possibility of parole is a sentence to life imprisonment which provides that the defendant would be eligible for parole after a minimum period of forty years. This does not mean that he would be paroled after forty years but only that he would be eligible for parole after that period of time.

Likewise, a prison term of one hundred years with eligibility for parole beginning when a minimum of forty years has been served does not mean that the defendant would be paroled after forty years but only that he would be eligible for parole after that period of time.

If you sentence the defendant to death, you must assume that the sentence will be carried out.

INSTRUCTION NO. 6

In the penalty hearing, evidence may be presented concerning aggravating and mitigating circumstances, and any other evidence that bears on the Defendant's character.

Hearsay is admissible in a penalty hearing.

INSTRUCTION NO. 7

In order to even consider the death penalty as an option for sentencing, you must first find beyond a reasonable doubt that the aggravating circumstance alleged by the State, in fact, does exist. If you do not find that the aggravating circumstance exists, you may not consider the death penalty as an option.

If you find beyond a reasonable doubt that the aggravating circumstance exists, you must then determine whether any mitigating circumstances exist.

The finding of a mitigating circumstance or circumstances need not be unanimous.

If you determine that any mitigating circumstance exists, you must then determine if the one or more of the mitigating circumstances found to exist outweigh the aggravating circumstance found to exist. If the one or more mitigating circumstances do not outweigh the aggravating circumstance, you may consider the death penalty as an option.

Likewise, if you find that one or more mitigating circumstances do not exist and you find that the existence of the aggravating circumstance, you may consider the death penalty as an option.

Even if you find that the aggravating circumstance is not outweighed by the one or more mitigating circumstances, or if you find that there is an aggravating circumstance and that there are no mitigating circumstances at all, you still have the discretion to vote for the imposition of a sentence of life with the possibility of parole or one hundred years with the possibility of parole or life without the possibility of parole, rather than the death penalty.

INSTRUCTION NO. 8

The law does not require the jury to impose the death penalty under any circumstances, even when the aggravating circumstances outweigh the mitigating circumstances. Nor is the Defendant required to establish any mitigating circumstances in order to be sentenced to less than death.

INSTRUCTION NO. 9

In deciding on an appropriate sentence for the defendant, you will consider three types of evidence: evidence relevant to the existence of aggravating circumstances, evidence relevant to the existence of mitigating circumstances, and other evidence presented against the defendant. You must consider each type of evidence for its appropriate purposes.

In determining unanimously whether any aggravating circumstance has been proven beyond a reasonable doubt, you are to consider only evidence relevant to that aggravating circumstance. You are not to consider other evidence against the defendant.

In determining individually whether any mitigating circumstance exists, you are to consider only evidence relevant to that mitigating circumstance. You are not to consider other evidence presented against the defendant.

In determining individually whether any mitigating circumstances outweigh any aggravating circumstances, you are to consider only evidence relevant to any mitigating and aggravating circumstances. You are not to consider other evidence presented against the defendant.

If you find unanimously and beyond a reasonable doubt that at least one aggravating circumstance exists and each of you determines that any mitigating circumstances do not outweigh the aggravating circumstance, the defendant is eligible for a death sentence. At this point, you are to consider all three types of evidence, and you still have the discretion to impose a sentence less than death. You must decide on a sentence unanimously.

If you do not decide unanimously that at least one aggravating circumstance has been proven beyond a reasonable doubt or if at least one of you determines that the mitigating circumstances outweigh the aggravating, the defendant is not eligible for a death sentence. Upon determining that the defendant is not eligible for death, you are to consider all three types of evidence in determining a sentence other than death, and you must decide on such a sentence unanimously.

INSTRUCTION NO. 10

You are instructed that the following factor is the only circumstance alleged in this case by which Murder of the First Degree may be aggravated:

The murder was committed by a person who has, in the instant proceeding, been convicted of more than one offense of murder in the first or second degree.

Nevada law defines additional aggravating circumstances, but they do not apply in this case.

INSTRUCTION NO. 11

Murder of the first degree may be mitigated by any of the following circumstances, even though the mitigating circumstance is not sufficient to constitute a defense or reduce the degree of the crime:

(1) The Defendant has no significant history of prior criminal activity.

(2) The murder was committed while the Defendant was under the influence of extreme mental or emotional disturbance.

(3) The youth of the Defendant at the time of the crime.

(4) The Defendant's diminished intelligence.

(5) The impact of the defendant's execution on his family members, including his mother, grandmother, brother, and sisters Shermaine and Angela

(6) The impact of the defendant's execution on his other family members, friends and loved ones.

(7) Any other mitigating circumstances.

INSTRUCTION NO. 12

Mitigating circumstances are those factors which, while they do not constitute a legal justification or excuse for the commission of the offense in question, may be considered, in the estimation of the jury, in fairness and mercy, as extenuating or reducing the degree of the Defendant's moral culpability.

You must consider and give effect to any aspect of the Defendant's character or record and any of the circumstances of the offense that the Defendant proffers as a basis for a sentence less than death.

In balancing aggravating and mitigating circumstances, it is not the mere number of aggravating circumstances or mitigating circumstances that controls.

INSTRUCTION NO. 13

In determining whether mitigating circumstances exist, jurors have an obligation to make an independent and objective analysis of all the relevant evidence. Arguments of counsel or a party do not relieve jurors of this responsibility. Jurors must consider the totality of the circumstances of the crime and the defendant, as established by the evidence presented in the guilt and penalty phases of the trial. Neither the prosecution's nor the defendant's insistence on the existence or nonexistence of mitigating circumstances is binding upon the jurors.

INSTRUCTION NO. 14

A reasonable doubt is one based on reason. It is not mere possible doubt, but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

INSTRUCTION NO. 15

The jury is instructed that in determining the appropriate penalty to be imposed in this case that it may consider all evidence introduced and instructions given at both the penalty hearing phase of these proceedings and at the trial of this matter.

INSTRUCTION NO. 16

In your deliberation you may not discuss or consider the subject of guilt or innocence of the Defendant, as that issue has already been decided. Your duty is confined to a determination of the punishment to be imposed.

INSTRUCTION NO. 17

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

INSTRUCTION NO. 18

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

INSTRUCTION NO. 19

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. When you have agreed upon your verdicts, they should be signed and dated by your foreperson.

INSTRUCTION NO. 20

The Court has submitted several sets of verdicts to you.

There is one SPECIAL VERDICT dealing with the alleged aggravating circumstance.

There is one SPECIAL VERDICT dealing with mitigating circumstances.

There are three PENALTY VERDICT forms, one for each count.

At the conclusion of your deliberations, if you find that the existence of the aggravating circumstance has been proven beyond a reasonable doubt, you should return five signed verdict forms: the SPECIAL VERDICT dealing with the aggravating circumstance, the SPECIAL VERDICT dealing with the mitigating circumstances, and a PENALTY VERDICT fixing the punishment for each of the three counts.

On the other hand, if you decide that the aggravating circumstance has not been proven beyond a reasonable doubt, then you need only sign and return three PENALTY VERDICT forms, fixing the punishment for each of the three counts.

INSTRUCTION NO. 21

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

December 15, 2005

GIVEN: [signature]
DISTRICT JUDGE

TRAN

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2005 DEC 19 P 4:08

CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. GLENFORD ANTHONY BUDD, Defendant.	CASE NO. C193182 DEPT. XVIII

BEFORE THE HONORABLE NANCY M. SAITTA, DISTRICT COURT JUDGE

FRIDAY, DECEMBER 16, 2005, 4:05 P.M.

RECORDER'S TRANSCRIPT OF HEARING RE:
VERDICT

APPEARANCES:

For the State: ED KANE, ESQ., Deputy District Attorney
TALEEN PANDUKHT, ESQ. Deputy District Attorney

For the Defendant: HOWARD BROOKS, ESQ., Deputy Public Defender
TIMOTHY O'BRIEN, ESQ., Deputy Public Defender

RECORDED BY: JO ANNE B. PIERPONT, COURT RECORDER/TRANSCRIBER

DEC 19 2005
COUNTY CLERK

FRIDAY, DECEMBER 16, 2005, 4:05 P.M.

THE COURT: Let the record reflect all parties are present with counsel. Ladies and gentlemen, it is my understanding that you have reached a verdict. Is that correct?

JURORS: Yes.

THE COURT: Miss Foreman, would you please hand the jury verdict forms to my bailiff. Miss Clerk, would you read the verdict.

COURT CLERK: State of Nevada, plaintiff versus Glenford Anthony Budd, defendant, case number C193182, department number 18.

Special Verdict Aggravating Circumstances: We the jury in the above entitled case having found the defendant, Glenford Anthony Budd, guilty of count 1, murder of the first degree, Dajon Jones, victim, count 2, murder of the first degree, Derrick Jones, victim and count 3, murder of the first degree, Jason Moore, victim, designated that the following aggravating circumstance has been established beyond a reasonable doubt: The murder was committed by a person who has in the immediate proceeding been convicted of more than one offense of murder in the first or second degree. Dated at Las Vegas, Nevada this 15th day of December, 2005. Signed by the floor person, Juror No. 12.

Special Verdict Mitigating Circumstances: We the jury in the above entitled case having found the defendant, Glenford Anthony Budd, guilty of count 1, murder of the first degree, Dajon Jones, victim, count 2, murder of the first degree, Derrick Jones, victim, and count 3, murder of the first degree, Jason Moore, victim, designate that the mitigating circumstance or

circumstances, which have been checked or written in blue have been established.

The defendant has no significant history of prior criminal activity. The murder was committed while the defendant was under the influence of extreme mental or emotional disturbance.

The youth of the defendant at the time of the crime.

The defendant's diminished intelligence.

The impact of the defendant's execution on his family members, including his mother, grandmother, brother and sisters, Shermaine and Angel.

The impact of the defendant's execution on his other family members, friends and loved ones.

Any other mitigating circumstances: The apology of the defendant. Dated at Las Vegas, Nevada this 16th day of December, 2005. Signed by the floor person, Juror number 12.

Penalty Verdict Count 1, Dajon Jones, Victim: We the jury in the above case having found the defendant, Glenford Anthony Budd, guilty of count 1, murder of the first degree, Dajon Jones, victim, and having found that the aggravating circumstance or circumstances outweigh any mitigating circumstance or circumstances impose a sentence of life imprisonment without the possibility of parole. Dated at Las Vegas, Nevada this 16th of December, 2005. Signed by the floor person, Juror number 12.

Penalty Verdict Count 2, Derrick Jones, Victim: We the jury in the above case having found the defendant, Glenford Anthony Budd, guilty of count 2, murder of the first degree, Derrick Jones, victim, and having found that the aggravating circumstance or circumstances outweigh any mitigating

circumstance or circumstances impose a sentence of life imprisonment without the possibility of parole. Dated at Las Vegas, Nevada this 16th of December, 2005. Signed by the floor person, Juror number 12.

Penalty Verdict Count 3, Jason Moore, Victim: We the jury in the above case having found the defendant, Glenford Anthony Budd, guilty of count 3, murder of the first degree, Jason Moore, victim, and having found that the aggravating circumstance or circumstances outweigh any mitigating circumstance or circumstances impose a sentence of life imprisonment without the possibility of parole. Dated at Las Vegas, Nevada this 16th of December, 2005. Signed by the floor person, Juror number 12.

Ladies and gentlemen of the jury, are these your verdicts as read? So say you one so say you all.

JURORS: Yes.

THE COURT: Would either side ask that the jurors be polled.

MR. BROOKS: Defense does not, Your Honor.

MR. KANE: No, Your Honor.

THE COURT: Ladies and gentlemen, thank you for the time and the attention that you have given to this matter. For our one alternate, who was patient and ready and willing to serve at any moment, I want you to know how important your work here was. Although you may not understand the significance of the time that you spent, especially since you were kept separate from the rest of the jurors, the fact that we had you here, that we would have at any time if we needed to call you into service, it makes these proceedings effective and it makes them, I think, again, one of the best ways for us to

determine responsibility or imposition of sentence. And, so please don't think that the time that you spent here was anything less important than the others.

You are all, each and every one of you, released from jury service and can leave the courtroom at any time. You can go downstairs. I believe that we have someone standing by in jury services that can issue your checks to you. However, it is not at all unusual for our attorneys to want to talk to you to find out how you made your decision, what they could do better, what you thought of the case.

You are now relieved from the admonishment that I have given you every single time you've come and gone from this room. You now can speak to anyone you choose about any of the facts, the circumstances, your decision making process that you choose to speak to.

On the other hand, if you should choose not to talk to anyone and someone should insist upon talking to you, other members of the bar, people who may have been involved in this case in some way, you can simply refuse. You do not have to talk to anyone about this case. And if your refusal is not enough to keep that person from bothering you, my bailiff will give each one of you one of my business cards. All you have to do is call chambers and I can take care of that for you.

Again, I want to express the thank yous that are due to you on behalf of my court, on behalf of the system. I know on behalf of all the attorneys, the offices that have supported these attorneys, all of the people who are here present in this courtroom who have essentially gone through this process for one reason or another with all of you, our system of justice doesn't work unless people like you give of yourselves, give the time that the careful

consideration that you all have given, and I am proud to have been a part of this process.

There is nothing more difficult than what you all have now been through. This is the highest level crime wherein the most difficult, certainly the most serious penalties are being sought, and you were put into a position where you were called upon to make some very, very difficult decisions, and for all of us, for our entire system of justice, I cannot thank you enough.

If you wish to stay and talk with our attorneys you may do so. If you wish to leave you can do that as well. You do, however, have to turn in the lovely red badges that you've been so attached to for the last couple of weeks.

I leave the courtroom during the time that the attorneys if you choose to stay and talk with them or they choose to stay and talk to you. I then come back because if any of you do stay around I like to ask if there's anything that we can do as a court system to make this more comfortable for you or answer some questions that perhaps the attorneys aren't able to answer for you. So, it is my hope that I will see each and every one of you in a few moments after you're done talking with the attorneys if you choose to do so.

And, I am going to ask that the two sides of the courtroom here leave separately for what I believe are obvious reasons. I would ask that – I don't care which side goes first, but, no, in fact, I do care. I would ask that the victims' side leave the courtroom first and that at least one of our officers escort them out of the courthouse, and I will return in a few moments.

Thank you all.

MR. O'BRIEN: Judge, may we approach for a moment?

THE COURT: Certainly.

(Whereupon a Bench Conference was held.)

THE COURT: We need to set a date for sentencing.

THE CLERK: That will be February 1st at 9:00 a.m.

MR. BROOKS: And the matter is referred to the Department of Parole and Probation, Your Honor?

THE COURT: Indeed. What we're going to do now, Mr. Bailiff, we're going to for the attorneys' discussion with our jurors, those who wish to stay, we're going to take them back into the deliberation room now that we have them close by as we do here. Take the jurors back there if you would and the other matters that were discussed you can take up here in the courtroom.

In fact, you know, counsel, maybe I'll go back first and talk to the jury.

MR. KANE: Could I ask the Court's indulgence in remaining on the bench for one minute after the jury leaves?

THE COURT: Certainly. Mr. Bailiff.

(Jurors exit at 4:17 p.m.)

THE COURT: Mr. Kane. Mr. Brooks.

MR. KANE: Judge, I just wanted to make a record in the event of further appellate review that during the jury's deliberations the court did receive three notes from the jurors. The first and third notes, the Court simply indicated to the jurors that they would find the answers to their questions within the Court's instructions.

The second note required a response that had to do with the responsibility of determining whether imposed sentences less than death would

run concurrently or consecutively. We had a phone conference with the Court. The attorneys agreed upon a written response that was given to the jury and all attorneys, both prosecution and defense, agreed with that and then it was furnished to the jury in writing.

THE COURT: Thank you very much. That's important that it be made a part of record. The notes that come to me also go into the court record even though they're written on you know the skinny little, you know, juror notebooks. But, I make sure those all become part of the court record as well so the actual question is there.

I do want to also finally go on the record. Miss Pandukht, Mr. Kane, I asked that everyone from this side of the courtroom leave the courtroom yesterday because I wanted to have a few moments to explain to the defendant how important I felt it would be for him to take the opportunity that is provided to him to talk to the jury. And, although as I said this is a part of the record. Everything I said was recorded. Essentially the essence of my conversation with the defendant, I explained the perimeters of what he could say, that he could do it under oath, what the DA's could and couldn't do, but although I do not feel that I in any way violated the role of, you know, the neutral person in the courtroom, I did explain to the defendant that I felt it was extremely important that he take the opportunity that was provided to him and address the jury in the way that he felt appropriate.

MR. KANE: Judge, given what was at stake, I cannot take issue with the Court's decision either morally or legally.

THE COURT: Thank you very much.

MR. KANE: Thank you.

MR. BROOKS: And for the record, Judge, I believe that everything the Court said to my client was, in fact, on the record.

THE COURT: Every single word was on the record. We actually had, because I came off the bench, but we had the Court Reporter sitting right in front of the table so everything that was said was recorded.

I'm going to step back so that I can assure that at least I shake hands with those jurors who remain and then, Mr. Kane, Miss Pandukht, whenever you are ready you can come on back.

MS. PANDUKHT: Okay.

MR. KANE. We will. Thank you, Judge.

THE COURT: And, we'll give you a little bit of time.

MR. O'BRIEN: Thank you, Judge.

[Proceedings concluded.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the sound recording in the above-entitled case.

JO ANNE B. PIERPONT
Court Recorder/Transcriber

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CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. GLENFORD ANTHONY BUDD, Defendant.	CASE NO. C193182 DEPT. XVIII

BEFORE THE HONORABLE NANCY M. SAITTA, DISTRICT COURT JUDGE

FRIDAY, DECEMBER 16, 2005, 1:20 P.M.

RECORDER'S TRANSCRIPT OF TELEPHONIC HEARING RE:
POST-TRIAL JURY QUESTIONS

APPEARANCES:

For the State: ED KANE, ESQ., Deputy District Attorney
TALEEN PANDUKHT, ESQ. Deputy District Attorney

For the Defendant: HOWARD BROOKS, ESQ., Deputy Public Defender
TIMOTHY O'BRIEN, ESQ., Deputy Public Defender

RECORDED BY: JO ANNE B. PIERPONT, COURT RECORDER/TRANSCRIBER

RECEIVED
DEC 19 2005
COUNTY CLERK

FRIDAY, DECEMBER 16, 2005, 1:20 P.M.

THE COURT: Let's begin. Miss Clerk, would you please put the case number and the case name into the record?

COURT CLERK: It's C193182.

THE COURT: Thank you. State versus Budd. I'm going to ask that the Court Recorder for purposes of at least this part of the proceedings be designated as the official court record.

MR. KANE: Agreed by the State, Your Honor.

MR. BROOKS: Agreed by the defense, Your Honor, with the understanding that the official record is still submitted to us on a daily basis.

THE COURT: That's correct. We have two questions that we have received from the jury. Miss Clerk, would you please read those questions into the record.

COURT CLERK: Which one?

THE BAILIFF: Question number one, the first one.

COURT CLERK: Question number one: Can we please get verification on the special verdict mitigating circumstances form? If we check a box does that just mean it is a mitigating circumstance or does it mean we think it outweighs the aggravating circumstance?

THE COURT: Now, with respect to that question I had a form on my letterhead typed that instructed the jurors to please carefully review the written instructions because I believe the answer to that question is set forth within the instructions. The second question is the one that I wanted to confer with all of you --

MR. KANE: Judge, before we leave the first one, this is Ed Kane, I have no objection to the Court's suggested response because I believe it is answered in the original instructions, however, since the verdict forms are so confusing, the State would have no objection to the Court telling the jury that checking the mitigating circumstance box on the mitigating circumstances verdict form does not control the weighing of mitigators versus aggravators. It simply means that they have found that mitigator.

THE COURT: Mr. Brooks, Mr. O'Brien.

MR. BROOKS: Judge, we prefer the Court's suggested instruction.

MR. KANE: As I was sure they would.

THE COURT: I am always extremely hesitant to be any more specific, especially when I believe that the answer to the question is contained within the instructions. Unless there is an agreement, I will stay with my original instruction.

MR. KANE: Understood, Your Honor.

THE COURT: The second question, Miss Clerk, would you read that into the record please.

COURT CLERK: Would sentences other than the death penalty be carried out consecutively or concurrently?

THE COURT: Now, I saved that question because I thought we need to discuss this. Obviously, the instructions do not include in them any consideration for consecutive imposition of sentences between the counts and they certainly do not include the instruction regarding the equal and consecutive for the use. I would very much, unless you all have a better idea, like to again

have the jury be advised in writing on my letter that that is not a matter that you can be concerned about. Mr. Kane, Miss Pandukht.

MR. KANE: My only problem with that, Judge, is I don't know that really answers their question. My understanding of it is that it's the trial judge who determines consecutive or concurrent and I'd have no objection to an instruction that tells them that.

THE COURT: That's a better than accurate statement of what happens or what would happen. Mr. Brooks and Mr. O'Brien.

MR. BROOKS: Judge, what we would ask is that the Court instruct the jury as follows: The use of a deadly weapon, well --

MS. PANDUKHT: That's already in there.

MR. BROOKS: Alright. I agree.

MR. KANE: Well, I don't see any reason to get into that, Judge.

MR. BROOKS: I agree. Okay. I agree. I agree, it's just that, okay. Okay.

THE COURT: But they're not asking that.

MR. BROOKS: Okay. I would ask that the Court instruct the jury that the trial court determines the consecutive or concurrent nature of the sentences.

THE COURT: And therefore --

MR. KANE: And the State would have no objection to that, Judge.

THE COURT: And therefore they have no need to consider that.

MR. BROOKS: Correct.

MR. KANE: And that's fine. Sure, Judge.

THE COURT: Okay, as you know, I'm at one of our local hotels at a Supreme Court meeting, or I presume that you know that. So I'm not there in

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the office and my JEA is also here with me. Cliff, do you think we can get someone who is back in chambers there to type out the second answer?

THE BAILIFF: If not Gil, if you don't feel comfortable that way we can go with Judge's Walls' secretary. She's in.

THE COURT: Oh, I'm perfectly comfortable with Gil.

THE BAILLIF: Okay.

THE COURT: Perfectly comfortable. I would ask simply that either all counsel or at least one from each side stand over his shoulder as he types it and/or that they write it out so that we can have an exact statement of what we think the response to their question should be.

MR. KANE: We'll stay until it's agreed between counsel if that's acceptable to the Court, Judge.

THE COURT: Thank you. That's what I would prefer. I also want you all to know, you know, we had a problem with one juror who sent me a note last night, Juror number 10, that he needed not to come in today and I gave the instruction through Mr. Bailiff that unless he heard otherwise he should come in. He did come in and he obviously is participating in a meaningful way with the deliberations.

However, the beginning of next week we begin to run into problems. If you can review your notes from some of the jury selection process we begin to run into trouble with people who had plans to be out of the jurisdiction that we promised they would be able to comply with their plans. I am seriously contemplating bringing the jury back tomorrow to deliberate if they do not reach a verdict today.

MR. KANE: No problem on behalf of the State, Judge.

MR. BROOKS: No problem on behalf of the defense, Your Honor.

THE COURT: Very well. Then either I will see you all later this afternoon and/or tomorrow.

MS. PANDUKHT: And, Judge, if we do, yeah, tomorrow, would we have like half an hour from when we're notified since we're going to be at home?

THE COURT: Oh, of course, of course. We always give you guys a half hour.

MS. PANDUKHT: Oh, Judge, what time would you have them break today? Do you know?

THE COURT: Oh, I'm going to make --

(Phone unexpectedly disconnected.)

[Proceedings concluded.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the sound recording in the above-entitled case.

JO ANNE B. PIERPONT
Court Recorder/Transcriber

the trial, including their verdicts of guilty on three counts of first degree murder, we rest our case in chief.

THE COURT: On behalf of the defendant, Mr. Brooks, Mr. O'Brien, are you prepared to call a witness?

MR. BROOKS: Judge, can I look out in the hallway, please?

THE COURT: Certainly.

MR. O'BRIEN: Can we approach, judge?

THE COURT: Certainly.

MR. O'BRIEN: Oh, no, just your clerk.

MR. BROOKS: Judge, the defense would call James Esten, E-s-t-e-n.

THE BAILIFF: Mr. Esten, if you would, raise your right hand, please, face the clerk.

JAMES ESTEN,

called as a witness, and having been first duly sworn to testify to the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

THE CLERK: Please be seated. Will you please state your name and spell it for the record?

1 THE WITNESS: James Esten, J-a-m-e-s
2 E-s-t-e-n.
3 THE CLERK: Thank you.
4
5 DIRECT EXAMINATION
6 BY MR. BROOKS:
7 Q. Mr. Esten, what is your occupation,
8 please, sir?
9 A. I am retired from the California
10 Department of Corrections, and since 1994 I have
11 been working as a correctional consultant.
12 Q. Where do you live right now?
13 A. Sacramento, California.
14 Q. And what is your formal education,
15 please, sir?
16 A. I hold a Bachelor or Arts Degree in
17 English from San Francisco State University, which
18 I obtained in 1973, and a Master of Arts Degree in
19 education administration, which I obtained several
20 years later from San Jose State University.
21 Q. What is your employment background, sir?
22 A. In 1973, following my discharge from the
23 United States Marine Corps, I went to work for the
24 California Department of Corrections and was so
25 employed until my retirement medically in December

1 of 1992.
2 Q. What do you do with your, in your, the
3 service of your employers?
4 A. My initial employment with the California
5 Department of Corrections was as a vocational
6 instructor, teaching inmates offset printing
7 skills so that, upon their parole, they would be
8 employable as printers in the community. I held a
9 variety of jobs. I held that position for the
10 first seven years. Following that I was a
11 supervising correctional counselor. I supervised
12 four correctional counselors who, in turn, had 125
13 inmates on their case load. As a supervising
14 correctional counselor, I chaired the reception
15 center classification committee. I was a
16 supervising counselor for a general population
17 housing unit for a security housing unit, a lockup
18 housing unit. I was the public information
19 officer for the institution, and I was the
20 administrative assistant to the
21 superintendent/warden.
22 Following that I was promoted to a
23 program administrator position, and in that
24 capacity I was the supervisor of a general
25 population inmate housing unit with 600 general

1 population inmates in what California terms level
2 three and level four. I chaired their
3 classification committee. I supervised the
4 correctional officers, correctional sergeants, and
5 correctional lieutenants assigned to that housing
6 unit. My next position was as the administrator
7 of the training center at Galt, G-a-l-t,
8 California. This is where all new correctional
9 officers were trained prior to their assignment to
10 a institution within the California system. My
11 last assignment was as an inmate appeals
12 investigator working in headquarters in Sacramento
13 where I investigated inmate complaints on behalf
14 of the director of corrections. Inmates in the
15 California system and the Nevada system have the
16 ability to grieve, if you will, anything that they
17 feel was done wrongly to them. This is short of
18 their commitment offense, something that happened
19 to them after their receipt in their respective
20 department of corrections. It could be as
21 minuscule as, when I got my lunch, it was supposed
22 to have a piece of cheese, and it didn't to, I've
23 been accused of stabbing Inmate Joe, and I wasn't
24 even in the housing unit at the time Inmate Joe
25 was stabbed.

1 Q. Since your retirement what have you been
2 doing?
3 A. For the first two years I did
4 post-retirement kind of fooling around stuff,
5 nothing really productive. And then in 1994 the
6 former director of corrections, Jerry Enomoto,
7 E-n-o-m-o-t-o, was appointed to the eastern
8 district as US Marshal by then President Clinton.
9 He had been a correctional consultant. We had
10 known each other during his working days and my
11 working days. And he asked me if I would like to
12 take over his consultancy. I felt honored, and
13 that was something that interested me, and I had
14 been doing that ever since.
15 Q. What does that mean, to consult in this
16 way that you described?
17 A. For the most part, what I do is review
18 the histories of inmates charged with serious
19 felonies who are facing either life, life without
20 possibility of parole, or death sentences. I
21 review their records and make an evaluation for
22 their attorneys as to their amenability for
23 placement in a maximum security prison for the
24 remainder of their lives.
25 Q. Now, why are you here today?

1 A. I had been retained by the Clark County
2 Public Defender's Office to review the confinement
3 history of the defendant and evaluate his
4 potential for successful placement in Ely State
5 Prison.
6 Q. Are you paid to be here?
7 A. I am.
8 Q. And how much are you being paid?
9 A. I'm being paid $800 plus expenses.
10 Q. And is that expenses including air
11 travel?
12 A. The county booked my air travel. It
13 would cover parking in Sacramento and maybe lunch
14 if I get to it.
15 Q. Okay. Now, in preparation for your
16 testimony here, you have toured the Ely State
17 Prison?
18 A. On two occasions, yes.
19 Q. And when did you tour that facility?
20 A. The first occasion was in 1999. The last
21 occasion was the past October, October 20th.
22 Q. Of 2005?
23 A. Yes.
24 Q. You have also acquainted yourself with
25 the administrative regulations governing the

1 prisons of Nevada?
2 A. I have downloaded every regulation
3 available regarding conditions of confinement,
4 classification, how inmates are moved, what
5 security restraints are placed on them, canteen
6 operations, everything that would apply to an
7 inmate being housed in a maximum security setting
8 at Ely.
9 Q. You've also interviewed the warden on --
10 A. On two occasions.
11 Q. What is his name?
12 A. EK -- those are his initials -- McDaniel.
13 Q. And when did you interview him?
14 A. In 1999 and October 20, 2005.
15 Q. And you've also reviewed Clark County
16 Detention Center records; is that correct?
17 A. That is correct.
18 Q. What kind of records did you review?
19 A. I reviewed the disciplinary records
20 provided by CCDC on a subpoena and the medical
21 records that were attached thereto.
22 Q. Now, in your describing your experience,
23 which is mostly in California, correct?
24 A. Correct.
25 Q. You've mentioned the term classification.

1 What does that mean?
2 A. Classification is the process used by
3 every department of corrections nationwide to
4 place the inmate in the appropriate custodial
5 setting based on his unique needs, those needs
6 encompassing the commitment offense, his age, any
7 arrests or criminal history that he may have, any
8 gang involvement or gang affiliation he may have.
9 The goal of every department of corrections is to
10 house an inmate in the most secure facility to
11 meet his needs but the least security, the least
12 secure facility to meet the needs of the
13 department, because the higher the security level,
14 the more expensive it is to house someone. But
15 every department of corrections will house an
16 inmate based on the security level that they deem
17 is appropriate to protect society and the staff
18 and inmates of that institution.
19 Q. Based on your experience in California
20 and based on your review of Nevada records and
21 your conversation with Mr. McDaniel, are you able
22 to tell us what will happen to a person in the
23 prison system in terms of where they go and what
24 they do with them after a person is convicted of
25 first degree murder?

1 A. Yes.
2 Q. Can you tell us what would happen in that
3 situation?
4 A. Actually I can tell you better in Nevada
5 than in California. California has 33 prisons and
6 166,000 inmates. Nevada has nowhere near that.
7 Every Southern Nevada inmate in the southern
8 counties will go to High Desert State Prison for
9 reception center processing. There he undergoes a
10 classification interview where all those
11 background factors that I listed earlier are
12 established. He'll go through a medical. He'll
13 go through a psychiatric review. He'll go through
14 a battery of tests to determine just who he is and
15 where he is best placed.
16 He will then be moved on, and in this
17 case there is no question he will be moved on to
18 Ely State Prison. The very nature of the offenses
19 in this case and the age of the defendant require
20 that he be placed initially from High Desert State
21 Prison to Ely State Prison, the only maximum
22 security prison in the State of Nevada.
23 California has 11.
24 Q. Let me interrupt you. You said the age
25 of the defendant. What do you mean by that?

1 A. The defendant is very young. He has a
2 birthday coming in a little more than a week,
3 which will make him 23, I believe. He has no
4 history to bring with him to the Nevada Department
5 of Corrections that will tell them that this guy
6 is worth taking a risk with. If he were 35, if he
7 were 40, if he had been in and out of the system
8 numerous times, they would have a track record on
9 him that would say he's worthy of placement in
10 other than our maximum security institution. The
11 three homicides, the lack of history that he has
12 with the Nevada Department of Corrections requires
13 that he be placed in Ely State Prison, the only
14 maximum state prison in the system.
15 Q. What is the difference between a maximum
16 security prison and other prisons?
17 A. In Nevada it's a degree of movement.
18 Inmates newly received in administrative
19 segregation as life-term inmates at Ely are locked
20 up 23 hours a day. Inmates in other systems have
21 more freedom and more movement. That is not the
22 case with someone new to the system, new to Ely.
23 He will be ad seg. He will be locked up 23 hours
24 a day. He will be fed in his cell. He will be
25 escorted with two correctional officers anywhere

1 he goes in both handcuff and waist restraint and
2 ankle restraint. He will undergo an unclothed
3 body search anytime he leaves his cell. This is a
4 maximum security prison with maximum controls.
5 Q. Now, going back a second, we've talked
6 about what happens if you're convicted of murder.
7 Does it make a difference, in terms of this
8 classification, whether the person is sentenced to
9 life in prison with the possibility of parole,
10 life in prison without the possibility of parole,
11 or death penalty?
12 A. Not initially.
13 Q. All of these people that, go to Ely
14 prison; is that right?
15 A. They're all going to Ely prison. The
16 death row condemned inmate goes to a separate
17 section of what's called phase one in Ely State
18 Prison but in that same phase one section. But in
19 a different building is the
20 life-without-possibility-of-parole inmate. So,
21 for all intent and purposes, they're housed the
22 same.
23 Q. Where is Ely State Prison?
24 A. Ely State Prison is approximately four
25 and a half to five hours north of here.

1 Q. In Northern Nevada?
2 A. Central Nevada. It's not, it's like due
3 east of Reno.
4 Q. Okay. How many prisoners are at Ely
5 State Prison?
6 A. I don't have an absolute count. I can
7 give you the numbers that the Internet gives me,
8 and that varies from 780 plus or minus to 1100.
9 There is a design capacity. There is a optimal
10 capacity. And there is an overcrowded capacity.
11 So, it varies on just how many there are. When I
12 was there in October, I was told that they were
13 reaching capacity.
14 Q. When you were there in October, you took
15 a tour of the facility?
16 A. Yes.
17 Q. How did that happen?
18 A. A request was made, pursuant to my work
19 on another capital case, for me to tour with one
20 of the attorneys from that case. In a previous
21 case the district attorney had objected to the
22 currency of my testimony, because my previous tour
23 was in 1999. It was then decided that before I
24 would testify in the following case every effort
25 would be made to gain access to Ely, once again,

1 to update my knowledge of the facility, if
2 anything had changed.
3 Q. And, by the way, you've testified in
4 other cases; is that correct?
5 A. I've testified in five Clark County cases
6 and one Washoe County case.
7 Q. And have you testified in California?
8 A. Oh, I've testified in 65 cases in
9 California.
10 Q. Do you always testify for the defense?
11 A. Yes.
12 Q. Have you ever testified for the State?
13 A. I have been retained by the federal
14 prosecutor's office in Kern County, but I was not
15 called to testify.
16 Q. I want to understand what the Ely prison,
17 how it's organized. Can you give me a general
18 idea of how it's broken down up there?
19 A. The physical plan is designated as phase
20 one and phase two. As you enter the facility
21 phase one is on the right. Phase two is on the
22 left. It's not a very complex system. Phase one
23 was finished first. Phase two was finished
24 second. Consequentially, they named them one and
25 two. All of the lockup inmates, those being

1 condemned, life without possibility of parole,
2 those ad seg inmates who have life with
3 possibility of parole, those disciplinary
4 detention inmates, anyone who's on any form of a
5 lockup status is in phase one or the right-hand
6 side. The left-hand side are general population,
7 still maximum security inmates but general
8 population maximum security inmates who have a
9 little more freedoms than those on the right-hand
10 phase one side.
11 Q. You referred to admin seg. What is that
12 exactly?
13 A. Administrative segregation is a form of
14 housing imposed by maximum security prisons and
15 others for the management of the inmate
16 population. The less movement that your inmates
17 have, the less problems your inmates are going to
18 create, the less potential for gang activity, the
19 less potential for narcotics movement, the less
20 potential for weapons involvement. Because when
21 inmates don't get together, they don't plan
22 uprising problems, disturbances.
23 The administrative segregation inmates
24 are singularly housed in most cases, two-man
25 housed in other cases. The only time they would

1 go to the yard, exercise yard would be by
2 themselves if they're single celled or together
3 with a cell partner if there are two men in that
4 cell. So, you don't have the clustering or
5 grouping of inmates that you would have where
6 they're allowed to commingle.
7 Q. And it's my understanding what you're
8 saying here is that a person convicted of murder
9 who gets a sentence of life or life without the
10 possibility of parole will definitely go to
11 administrative segregation at first when they go
12 to the prison system?
13 A. They will go to High Desert for
14 processing, and High Desert will send them to Ely,
15 and Ely will make them administrative segregation,
16 lockup 23 hours a day.
17 Q. How long will that condition last for an
18 inmate if it can be said?
19 A. There is not an absolute answer to that.
20 There is the option -- that's the important word,
21 an option -- for review after 90 days, but the
22 inmate has to present some important factor that
23 would provide a reason for the committee to change
24 their mind and release them from ad seg standard.
25 Reviews are 180 days. That's what the book says.

1 But there are inmates, and this is based on
2 testimony by EK McDaniel. There are inmates who
3 have been in administrative segregation for more
4 than 10 years, for 12 years.
5 Q. You caused certain photographs to be
6 taken during your tour up there; is that right?
7 A. Yes. Let me give you a little history.
8 On the 1999 tour I was permitted to take a camera
9 into Ely State Prison. I was shown to phase two,
10 the general population side of Ely State Prison
11 with the explanation that every cell at Ely is the
12 same. Subsequent to that and prior to the 2005
13 tour I learned that phase one is significantly
14 different because of the types of inmates that are
15 housed there.
16 So, in October of 2005 I brought the
17 digital camera to take pictures, and the camera
18 was not permitted into the institution. A
19 correctional officer was assigned to accompany us
20 and take whatever pictures we requested.
21 MR. BROOKS: With the Court's permission,
22 may I approach?
23 THE COURT: Certainly.
24 BY MR. BROOKS:
25 Q. What I'm going to do is, I'm going to

1 have you identify the pictures. I'm going to move
2 for admission, and then I'm going to let you
3 explain to the jury what they are.
4 Do you recognize what's Defense Proposed
5 Exhibit E?
6 A. Yes.
7 Q. What is that, please?
8 A. That is a picture of a vacant cell that
9 we were shown as an example of all cells at phase
10 one and/or phase two of Ely.
11 MR. KANE: Judge, if these pictures are
12 all pictures that were taken during the witness's
13 October, 2005 visit and if they all fairly and
14 accurately depict, we'll stipulate to their
15 admission, and they can be displayed to the jury
16 as they're being described.
17 MR. BROOKS: That is the case.
18 THE COURT: Mr. Brooks, then you may use
19 those. The numbers again for the record?
20 MR. BROOKS: Defense Exhibit E, F, G, H,
21 I, J, K, L, and M.
22 THE COURT: For the record, by
23 stipulation they would be admitted. The defense
24 may publish them. And there was actually an
25 acknowledgment that they were taken during the

1 October, '05 visit of this witness and that they
2 accurately, fairly and accurately depict the
3 prison. Is that correct?
4 MR. BROOKS: That's correct, your Honor.
5 THE COURT: You may proceed.
6 BY MR. BROOKS:
7 Q. Mr. Esten, I'm going to put them on the
8 board here, let the jury see them at the same time
9 I'm going to show them to you.
10 By the way, this is interesting. We have
11 new technology here. This is a brand new
12 courthouse. You can actually look at them on your
13 screen there, and you can take your hand and make
14 marks and show things. And to make it go away
15 just punch it.
16 THE COURT: Usually it goes away.
17 BY MR. BROOKS:
18 Q. Well, you punch it somewhere, and it
19 cleans up. There it is. Okay.
20 This is, we're starting off here with
21 Proposed -- well, Defense Exhibit E. What does
22 this show us here?
23 A. Defense Exhibit E is the rear wall of a
24 cell designated either administrative segregation
25 or condemned in phase one of Ely State Prison.

1 The right wall identifies, going across to the
2 left, a writing shelf for the inmate. The green
3 box in the lower left corner is the platform for
4 the mattress. And the light area in the upper
5 left-hand corner is the recessed window that is
6 made of lexan, which is impenetrable and is
7 approximately 30 inches by four to five inches
8 wide, precluding anyone escaping through that
9 space.
10 Q. Do you know the dimensions of this cell?
11 A. We queried EK McDaniel, the warden, while
12 they were there for the dimension of the cell. He
13 did not know off the top of his head and faxed to
14 us dimensions that indicate the width of this cell
15 at 6'8" and the depth of this cell from front to
16 rear -- this may be hard to show -- as 16'.
17 Q. Now, is everyone in phase one in a cell
18 like this?
19 A. Everyone is in a cell like that, unless
20 they have a cell partner, in which case there
21 would be another bunk above this one where a
22 second inmate would sleep.
23 Q. In phase one were some people double
24 bunked?
25 A. Yes.

1 Q. Assuming a person graduated from phase
2 one to phase two, were they in similar cells like
3 this if you know?
4 A. Yes. The cells throughout Ely are the
5 same other than the single versus double bunk
6 configuration.
7 Q. In phase two is it, is it also single
8 bunk?
9 A. My understanding is that phase two is
10 double bunked.
11 Q. I'm going to show you now Defense Exhibit
12 F. What is this?
13 A. This is the other side of the same cell.
14 We're looking at the same window in the upper
15 left-hand corner, the other edge of the shelf on
16 the right, and the bunk as it attaches to the
17 left-hand wall, again looking in from the doorway.
18 Q. What about Defense Exhibit G?
19 A. G is the shelf again attached to the
20 right-hand wall, looking in from the door of the
21 cell. I think of interest, because I brought it
22 up to EK McDaniel, are all of the marks on the
23 walls of the cell, the marks -- what did I do?
24 THE COURT: Tap the right side of your
25 screen.

1 THE WITNESS: Thank you -- the marks on
2 the rear wall, the marks on the right-hand wall.
3 The red border is where I have drawn a square, and
4 that's the designated spot where inmates are
5 supposed to put up photographs or pictures cut out
6 from magazines, whatever is permitted in the
7 institution. That square is where they're
8 supposed to be placed. But this particular inmate
9 had covered all of the walls with photographs, and
10 the paint was peeled off when the photographs were
11 removed. I asked if, as would typically be the
12 case in a maximum security facility, the inmate
13 was going to be charged for the painting of the
14 wall due to destruction of state property, and I
15 was told that he would be.
16 BY MR. BROOKS:
17 Q. What about Defense Exhibit H? What is
18 this?
19 A. That is a toilet, toilet paper roll
20 holder, sink, and drinking fountain, stainless
21 steel combination facility that is in place in
22 every cell.
23 Q. And what is Defense Exhibit I? What does
24 that show us?
25 A. I is the exterior door of a phase one

1 cell. I do not know that it is the same cell that
2 we photographed the interior of, but they are all
3 the same.
4 Q. What is that door made of if you know?
5 A. Steel.
6 Q. What about Defense Exhibit J? What does
7 this show us?
8 A. This is the same door with the food port
9 opened. And the food port serves a dual purpose.
10 Inmates in level one and some inmates in level --
11 or phase two -- excuse me -- phase one and phase
12 two are fed exclusively in their cells. All their
13 meals are brought to them. With the tray slot
14 opened, the food tray can be pushed into the cell
15 through that door without having to open the door
16 itself. And the inmate takes the tray. When he's
17 finished the with the meal, the door is opened
18 again, and he returns the tray to the correctional
19 officer.
20 I said it serves two purposes. When the
21 inmate is to be removed from the cell, the inmate
22 backs up to this food port, places his hands and
23 wrists through the opening, and he is handcuffed
24 by the correctional staff. He then steps away
25 from the door, and the door is opened but not

1 until he is securily handcuffed.
2 Q. And inmates are spending how much time a
3 day in this cell situation?
4 A. Twenty-three hours a day.
5 Q. What does this picture, which is Defense
6 Exhibit K, show, please?
7 A. This is a typical housing unit in phase
8 one. The cell doors are the darker colored
9 squares here and here and here. They are
10 bisected, identified with an X by access to the
11 plumbing, the stainless steel plumbing facility
12 that I showed you earlier. All of these
13 facilities are two tiers, meaning that there is a
14 row of cells on the bottom and a row of cells on
15 the top. The number of cells are identical top
16 and bottom.
17 Q. And what about Defense Exhibit L?
18 A. This is the exercise yard where inmates
19 in phase one who are in administrative segregation
20 or serving a death sentence or a life term may
21 exercise. This door that I'm identifying is an
22 emergency escape door, which is not used, and
23 it's, in fact, it's welded shut. In the left-hand
24 corner where the light and shadow meet is a
25 basketball hoop. I queried Warden McDaniel as to

1 what exercise materials were available to the
2 inmates on this exercise yard. His response was,
3 what you see is what they get. There was nothing
4 there.
5 Q. What about Defense Exhibit M?
6 A. M is the left-hand corner of the same
7 exercise yard. The basketball hoop would be
8 approximately where I placed an X to the right of
9 that. Again there were no handballs, basketballs.
10 There were no balls of any kind and in that
11 exercise yard.
12 Q. Now, you've testified a little bit about
13 various things you saw and observed.
14 Are inmates allowed to leave their cells
15 one hour a day?
16 A. Yes.
17 Q. Where do they get to go?
18 A. They are permitted to go to the exercise
19 yard, and three times a week a portion of that
20 exercise yard time is for showers. So, while you
21 can go to the yard, if you choose to go to the
22 shower on one of those days, your yard time would
23 be curtailed due to the process of showering.
24 Q. So, the average inmate or the inmate up
25 there gets to shower how many times a week?

1 A. Three times.
2 Q. Now, he's eating in his cell, correct?
3 A. Correct.
4 Q. The food is handed through the port hole?
5 A. Yes.
6 Q. What if he wants to make a telephone
7 call? How does he do that?
8 A. There is a phone on a dolly that goes up
9 and down the tier, the tier being the walking area
10 in front of the cells. And he makes a collect
11 phone call using that phone. There is a
12 photograph, and I'm not sure you have it, but part
13 of the housing unit photographs include telephones
14 on the walls. Those are not accessible for
15 inmates who are in administrative segregation,
16 death row, et cetera.
17 Q. Do you know if they get free phone calls?
18 A. Absolutely not. They have to make phone
19 calls using calling cards or collect calls.
20 Q. What if they want to read a book? How do
21 they get books?
22 A. There is an approved library book system.
23 They can request the book. The book is brought to
24 them. And they may review, read the book, review
25 the book. There are also processes for ordering

1 books, but anything that an inmate orders is
2 subject to a significant surcharge because of the
3 handling required by the prison.
4 Q. You described a window in the cell. It
5 was a narrow, vertical slit. Is that fair to say?
6 A. Yes.
7 Q. What is the view out of those windows if
8 you know?
9 A. At Ely that view is High Desert broken by
10 the perimeter fence.
11 Q. Do you know anything about the climate at
12 Ely?
13 A. I have been told by staff who were
14 conducting the October tour that it has snowed as
15 much as five feet during a shift, and they had to
16 get highway patrol help to get out of there to get
17 home.
18 Q. So, it's a cold climate in the wintertime
19 at least?
20 A. Yes. It's high altitude.
21 Q. Perhaps it's warm in the summertime.
22 When a person is transported around the facility
23 are they allowed to walk like I'm walking right
24 now across the courtroom?
25 A. When they are transported, they are in

1 handcuffs with waist restraint so that their hands
2 are tied to their waist by the chains with
3 movement of approximately four inches. And they
4 are in ankle chains, which basically forces them
5 to shuffle.
6 Q. What is a waist restraint?
7 A. A waist restraint is a restraint that
8 goes around the inmate's waist, through his legs,
9 around his crotch. And his handcuffs are attached
10 to the waist or belly chain.
11 Q. Now, is this an environment up there
12 where people are relaxed, or is this a very
13 controlled environment?
14 A. This is the most controlled penal
15 environment in Nevada.
16 Q. Can you compare it to California?
17 A. Comparing it to California, I would say
18 it's comparable to Pelican Bay.
19 Q. Which is a maximum security prison?
20 A. Which is a maximum security prison, also,
21 for lack of a better term, in the middle of
22 nowhere.
23 Q. Is it clean at Ely?
24 A. It is impeccable, absolutely pristine.
25 Q. Are there lots of regulations?

1 A. There are regulations for everything.
2 Q. Are they ignored or enforced if you know?
3 A. They are enforced strictly.
4 MR. BROOKS: Now, you also examined, may
5 I approach, your Honor?
6 THE COURT: You may.
7 BY MR. BROOKS:
8 Q. You also examined some disciplinary
9 records on Glenford Budd; is that correct?
10 A. I did.
11 Q. And I'm handing you what's been marked as
12 Defense Proposed Exhibit V. Are those the
13 disciplinary records you examined?
14 A. Yes.
15 MR. BROOKS: I would like to move to
16 admit these, please.
17 MR. KANE: No objection.
18 THE COURT: Thank you.
19 BY MR. BROOKS:
20 Q. What is Glenford Budd's disciplinary
21 record like at Clark County Detention Center?
22 A. Minimal.
23 Q. What do you mean by minimal?
24 A. I have reviewed disciplinary records
25 where inmates had been involved in riots or

1 inmates had been in possession of weapons or
2 inmates have made inmate manufactured alcohol or
3 inmates have assaulted cell partners or
4 correctional staff. This is essentially nuisance
5 kind of activity for the amount of time that the
6 defendant was housed in the facility.
7 Q. He does have write-ups, doesn't he?
8 A. He does have write-ups, yes.
9 Q. How many write-ups does he have?
10 A. I'm counting four, because we have a
11 disagreement over whether or not one belongs to
12 him.
13 Q. Okay. What was he written up for?
14 A. His initial write-up was creating a minor
15 disturbance within the facility. He was banging
16 on the window.
17 Q. Okay. What else?
18 A. Possession of unauthorized items,
19 contraband, or clothing. He had a magazine that
20 belonged to another inmate.
21 Q. Anything else?
22 A. We had the one that I do not believe
23 belongs to him, because the cell number is
24 transposed, and his name does not appear.
25 Q. Okay.

1 A. Failure to follow safety regulations. He
2 failed to close the day room door when told to do
3 so and leaving his seat during chow.
4 Q. Now, someone with this type of minimal
5 disciplinary record is still, if he's convicted
6 and sentenced, convicted for murder, he's still
7 going to admin seg at Ely prison, correct?
8 A. Yes.
9 Q. And he will still spend time there?
10 A. Yes.
11 MR. BROOKS: I'll pass the witness.
12 THE COURT: Mr. Kane?
13
14 CROSS-EXAMINATION
15 BY MR. KANE:
16 Q. Just a couple, judge.
17 On this administrative segregation, you
18 indicated there is an initial review after 90
19 days, correct?
20 A. That's, that's the guideline, for the
21 inmate to request an initial review, yes.
22 Q. But somebody would have to make an
23 extraordinary showing to get out of admin seg that
24 quickly?
25 A. Yes.

1 Q. After that there is review of 180 days,
2 correct?
3 A. Correct.
4 Q. But there are inmates who have been
5 ad seg for 10 years?
6 A. Correct, more.
7 Q. Do those inmates still get their review
8 every 180 days?
9 A. Yes.
10 Q. What would cause an inmate to still be in
11 ad seg after 10 years if they're getting a review
12 every 180 days?
13 A. Failure to conform to what guidlines were
14 given him at the previous classification
15 appearance.
16 Q. And if an inmate was given guidelines at
17 the 180-day point and he did comply with them, how
18 long would he expect to remain in ad seg from the
19 time he arrived at the prison until the time he
20 was put in a less restrictive environment?
21 A. I can't answer that. The issue here is
22 the commitment offense, the age of the defendant,
23 and the lack of a custodial record in the penal
24 system on him to use as a benchmark for
25 determining how much time he needs to spend in ad

1 seg before he could be released safely.
2 Q. And you've reviewed all those
3 regulations, correct?
4 A. But there are no hard, fast answers.
5 Q. But assuming for the sake of argument
6 that Mr. Budd were put in ad seg and that he
7 behave himself with no more major infractions than
8 he's had in the Clark County Detention Center, do
9 you have an estimate of how long he would spend in
10 ad seg before he would be removed to a less
11 restrictive environment?
12 A. I would not be comfortable giving you an
13 estimate, no.
14 Q. You mention that ad seg people spend 23
15 hours a day in their cell, one hour out, correct?
16 A. Correct.
17 Q. Are they allowed visitation?
18 A. Yes.
19 Q. How often?
20 A. Two days a week.
21 Q. And how long do they get out for those
22 periods of visitation?
23 A. Seven hours.
24 Q. And is that in addition to the one hour a
25 day that they're allowed out every day?

1 A. I don't think so, because it would not
2 coincide correctly. I mean, if you visited from
3 8:00 to 4:00, whatever the seven hours are, you
4 would miss your out-of-cell period of time. So, I
5 don't think it's cumulative, that you could tack
6 on my out-of-cell hour to my visiting hour.
7 Q. Okay. Now, once people are removed from
8 ad seg what's the next step up?
9 A. Phase two.
10 Q. And in phase two how many hours a day do
11 you spend in your cell?
12 A. You still eat in your cell, but you are
13 out, I believe, up to four hours.
14 Q. Are there phase two inmates who are
15 serving sentencing of life without the possibility
16 of parole?
17 A. Yes.
18 Q. Are there phase two inmates who are
19 serving sentences of life with the possibility of
20 parole?
21 A. Yes.
22 Q. Are there any less restrictive phrases in
23 Ely than phase two?
24 A. There are phase one inmates, and I do not
25 knows if there are

1 life-without-possibility-of-parole inmates in
2 phase one, because phase one requires that you
3 have a job and, and my understanding of EK
4 McDaniel's policy is that
5 life-without-possibility-of-parole inmates do not
6 work in the kitchen or other areas that would be
7 prone to weapons or other possible problems.
8 Q. You anticipated my next question, which
9 is, are inmates in Nevada State Prison system
10 permitted to work?
11 A. Yes.
12 Q. Are they permitted to keep the money that
13 they earn working?
14 A. A portion of it, yes.
15 Q. What portion aren't they?
16 A. I don't have the percentage. I can give
17 you California's percentage. I don't know
18 Nevada's percentage.
19 Q. Are you aware of the range of money that
20 Nevada State inmates who work make?
21 A. I am not.
22 Q. Would it surprise you that there are
23 Nevada State inmates making up to $60,000 a year
24 while they're in prison?
25 A. It would surprise me, yes.

1 MR. KANE: Nothing further.
2
3 REDIRECT EXAMINATION
4 BY MR. BROOKS:
5 Q. Would it surprise you to know that any
6 money earned has to be applied to restitution?
7 A. It would not surprise me. All monies
8 owed always go to restitution first.
9 MR. BROOKS: Thank you. No further
10 questions.
11 THE COURT: Anything further?
12 MR. KANE: No, your Honor.
13 THE COURT: You may step down, sir.
14 Thank you for your time.
15 Counsel, will you approach?
16 (Conference at the bench.)
17 THE COURT: Who's next?
18 MR. O'BRIEN: Thank you, your Honor.
19 Adele Levy.
20 THE COURT: Thank you.
21 THE BAILIFF: Ms. Levy, if you would,
22 remain standing, please, raise your right hand,
23 face the clerk.
24 . . . . .
25 . . . . .

1 **ADELE LEVY,**

2 called as a witness, and having been first duly
3 sworn to testify to the truth, the whole truth,
4 and nothing but the truth, was examined and
5 testified as follows:
6
7 THE CLERK: Please be seated. Will you
8 please state your name and spell it for the
9 record?
10 THE WITNESS: My name is Adele Levy,
11 A-d-e-l-e L-e-v-y.
12
13 DIRECT EXAMINATION
14 BY MR. O'BRIEN:
15 Q. Good afternoon, Ms. Levy.
16 A. Yes.
17 Q. Can you tell the jury how you know
18 Glenford?
19 A. Yes. I'm a teacher, continuation high
20 school in Montebello, California, Veil High
21 School. And Anthony, as I know him, was a student
22 in my classroom.
23 Q. And can you tell us a little bit about a
24 continuation high school?
25 A. I would be happy to. I'm very proud of

1 the school that I work at. In California every
2 school district, unified school district must have
3 a continuation high school, which is an
4 alternative high school. It's for students who
5 don't fit into the system of a traditional high
6 school. Whether it's because of attendance,
7 attitudes, behavior, they end up at a continuation
8 high school, or you might know it as an
9 alternative school.
10 Q. Tell us what you know about Glenford,
11 about his --
12 A. I have nothing to say but positive
13 things. I, 19 -- probably -- 99, 2000 would have
14 been the last time that he was either in my class
15 or somewhere on the campus. And I, before I came
16 here I said to the, our now principal, Robert
17 Kennedy, who was assistant principal at that time,
18 I said, do you remember Anthony Budd? And he
19 went, yeah. And I said, was he in your office a
20 lot? He said, not enough for me to go, oh, yeah.
21 I remember him. So, then I went around and talked
22 to some other people. Brian Roberts, who is our
23 shop teacher, who said, I said, Brian, Anthony
24 earned 45 credits in your class, 45 credits over a
25 period of time. And he said, I said, what can you

1 say? He said, a really personable young guy. And
2 the thing that made me and the other people, Chip
3 Mayotte, who's our physical, our PE coach, he
4 said, say hi.
5 And I guess the compliment for me, I'm a
6 reading teacher. I was a former language arts
7 teacher, an English teacher. Now I'm the literacy
8 coordinator for the school. And John Cauherada,
9 who is our math teacher, said, yeah. I have a
10 very clear picture in math class when the students
11 were supposed to be reading, he says that they
12 weren't. He said, but Anthony, and when he said,
13 what's with the reading? Ms. Levy made me do it
14 in her class. I kind of like it now. And I felt,
15 what an accomplishment. I have no bad, terrible
16 things. They're all very positive, very plus
17 comments. That was my experience.
18 Q. Did there come a time when he abruptly
19 left your class?
20 A. I don't remember that, but I do remember
21 the last time that I saw him on the campus. It's
22 a small campus. Our maximum student population is
23 420, probably 390 most of the time. There are 13
24 teachers on the campus. We know the students. We
25 know them by name. How, how you doing? What's

1 going on? And Anthony, Anthony and I had the
2 ability to throw humor back and forth. I'm a
3 pretty strict teacher in the classroom. I have
4 high expectations. My students are supposed to
5 read. I'm not very effusive. And Anthony and I
6 would throw words back and forth to each other.
7 That would make me laugh. He just picked up on my
8 humor. And we had a beat to the humor.
9 And my recollection, I remember a white
10 matching, some kind of, of a jump suit or
11 something on, and I would tease Anthony about his
12 clothes, because he was always very nicely
13 dressed. And my recollection is this incredible
14 smile that was always there and just a real
15 friendly reaction. And then he was gone. He was
16 off the campus. And we, it's not our job to ask
17 what happens to the students. They come and go on
18 an alternative campus. When they're there,
19 they're welcomed. And when they're gone, it's
20 like, ooh. And when they come back again, wow.
21 And Anthony was gone. And at that point Angela,
22 his sister, I just said, how's Anthony? Okay.
23 Okay. Good. Okay. Good. And that was it.
24 Q. Thank you. Is there anything else you
25 would like to tell the jurors?

1 A. Just that all of my thoughts are positive
2 ones, and all of the thoughts of the people that I
3 work with who, who are still there, who knew him,
4 it's the same thing, no troubles, no fights, no
5 disruptions in class, nothing like that at all.
6 Q. Thank you very much.
7 A. Thank you.
8 MR. O'BRIEN: Pass the witness, your
9 Honor.
10 THE COURT: Mr. Kane?
11
12 CROSS-EXAMINATION
13 BY MR. KANE:
14 Q. Ma'am, just a couple of questions, ma'am.
15 A. Certainly.
16 Q. How were his grades?
17 A. Average grades. I remember specifically
18 one report card only, because it recently crossed
19 my path. And it was a C and 2.5 credits. So, it
20 was for a short, short period of time and an
21 average grade.
22 Q. And that mark wasn't exceptionally high
23 or low for him?
24 A. No.
25 Q. Do you remember any particular classes

1 that he had problems with?
2 A. Classes that he had problems with? I had
3 him for language arts. There wasn't a problem in
4 language arts, reading and reading improvement,
5 whatever you wanted to call the class, English.
6 And nobody else made any comments to me that there
7 were problems in classes ever.
8 Q. So, you basically found him to be a
9 person of average intelligence?
10 A. Yes. I, yeah.
11 MR. KANE: Nothing further, your Honor.
12 MR. O'BRIEN: Nothing further.
13 THE COURT: You may step down now. Thank
14 you very much.
15 THE WITNESS: Okay. Thank you.
16 THE COURT: Another witness of about this
17 duration perhaps, or is this where we would have a
18 demarcation in going into --
19 MR. O'BRIEN: Based on the Court's
20 concerns, this would be, this satisfies our
21 problems, your Honor.
22 THE COURT: Thank you. Thank you very
23 much.
24 Ladies and gentlemen, recognizing what a
25 long day yesterday was, certainly how trying the

1 testimony here today has been, and that you still
2 have a bit more to hear, we're going to take an
3 early recess today. We'll be in recess until
4 tomorrow at 8:30.
5 During our overnight recess I must remind
6 you again it is your duty not to discuss this case
7 among yourselves or with anyone else. You must
8 not read, watch, listen to a report of or
9 commentary on anything which might be associated
10 with this matter. Don't form or express an
11 opinion in any of these issues until it has been
12 fully and finally submitted to you under
13 instruction of law by me.
14 I'll see you tomorrow morning at 8:30.
15 (Thereupon, the jury exited the courtroom.)
16 THE COURT: Counsel, to the best of my
17 knowledge, tomorrow will be whatever time you
18 need. We'll get it wrapped up, I presume.
19 Is that a fair statement, defense?
20 MR. KANE: Can I ask the defense who they
21 have left?
22 THE COURT: Yes. Who's left, the family?
23 MR. O'BRIEN: Family and, family and
24 Dr. Paglini.
25 THE COURT: And he was, we thought, going

1 to be an hour, hour and a half witness, correct?
2 MR. O'BRIEN: Correct.
3 THE COURT: Very well.
4 MS. PANDUKHT: How many family members?
5 MR. O'BRIEN: We have approximately, it's
6 a little bit in flux. I would say approximately
7 six family members.
8 THE COURT: Okay. Then we'll be back
9 tomorrow at 8:30, 8:30 tomorrow.
10 MR. O'BRIEN: Thank you.
11 * * * * *
12 Attest: Full, true, accurate transcript of
13 proceedings.
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Get-togethers

1 what we're doing now: Basically the State will do
2 opening statements. The State will present their
3 witnesses. I'm informed by Mr. Kane and
4 Ms. Pandukht that we will go beyond the lunch
5 break on their witnesses. And then the defense
6 will likely present our family witnesses and
7 Dr. Esten. We're hoping it would be very helpful
8 to the defense to be able to present the testimony
9 of Dr. Paglini, which would be approximately an
10 hour and a half tomorrow morning, first thing, and
11 then argue and then, and instruct the jury and
12 then argue. It would be helpful because, frankly,
13 we're still preparing the power point. We're
14 still preparing the power point presentation for
15 Dr. Paglini, and Dr. Paglini's feeling he's not
16 completely prepared yet. He's working on it now.
17 It would also allow Jeff Jager to come in tomorrow
18 morning to set up for Dr. Paglini. I'm hoping the
19 Court will allow us to go ahead and, and do that.
20 I'm not sure if this works or not.
21 THE COURT: We'll make it work.
22 MR. BROOKS: Okay. Thank you, judge.
23 MR. KANE: Judge, I don't have any
24 problem with that scheduling, but the one thing I
25 would ask is this, that we have -- and by we I

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1 mean the prosecution -- have received notice of
2 expert witness on both Dr. Esten and Dr. Paglini.
3 And I know Dr. Paglini. So, I know what his
4 qualifications are. And they basically tell us in
5 a one-line format what the witnesses are going to
6 be testifying about. We have seen no reports.
7 We've seen no power point presentations. We've
8 had not even offer of proof as to what they're
9 going to say.
10 Now, I know at sentencing everything
11 comes in, and there is no way that any of that is
12 not coming in. My only request would be, if there
13 are any materials like a power point presentation,
14 that could be mailed to, or e-mailed to
15 Ms. Pandukht or myself this evening so that we can
16 be more prepared to cross-examine Dr. Paglini
17 tomorrow, it would certainly shorten things up.
18 If that can't be done, I understand he's still
19 going to be allowed to testify, but it would just
20 help matters.
21 MR. BROOKS: Here's what I'll do, judge.
22 We have not received a report from Dr. Paglini
23 yet. He's going to bring me a report, he says at
24 lunchtime today. And I will get a copy made and
25 give it to Mr. Kane. Also, also, judge, we would

1 like to take that opportunity to discuss yesterday
2 to allow Dr. Paglini to meet with Glenford over
3 the lunch hour in some room adjacent to this area
4 if that's possible.
5 THE COURT: We'll find a room. I'm only
6 going to give a 45-minute lunch break. I have
7 already ordered lunch in for the jury. But we'll
8 find a room unless there is objection from the
9 State.
10 MR. KANE: No, none at all.
11 THE COURT: We'll make that happen.
12 MR. BROOKS: The seventh issue, judge, is
13 there has been no report from Dr. Esten or
14 Mr. Esten. What I will do is, I will provide to
15 the State a copy of his testimony in another
16 similar trial. That will allow him to understand
17 exactly where we're going with this.
18 MR. KANE: Great. And that would give me
19 at least a 45-minute lunch hour, if I get it at
20 the beginning of the lunch hour, to review it.
21 THE COURT: Very good. And would you,
22 since you're all going to be working through the
23 lunch hour, would you like me to add you to our
24 lunch hour?
25 MR. KANE: No. That's fine, judge.

1 MR. BROOKS: No. Thank you, judge.
2 MR. O'BRIEN: No. Thank you, judge.
3 THE COURT: Very well. Do we have a
4 jury, Mr. Bailiff?
5 MR. KANE: Judge, I have one, and it
6 really is only one.
7 THE COURT: There's no sub A's are B?
8 MR. KANE: No. No. I just want to deal
9 with the Kasmeric issue. You may recall that
10 there was testimony or indications earlier that
11 some of the victim impact witnesses might be
12 subject to questioning about their opinion on
13 penalty. I think the Kasmeric versus State 120
14 Nevada Advanced Opinion Number 37 clearly
15 establishes that that kind of testimony is not
16 admissable either from the prosecution or elicited
17 by cross-examination by the defense. We're going
18 to caution our witnesses not to express any such
19 opinion and, in fact, we'll lead them, and we'll
20 interrupt them, if necessary, if they start to do
21 that. I just want to make sure that it's not
22 going to be sought to be elicited on
23 cross-examination.
24 THE COURT: Mr. Brooks? Mr. O'Brien?
25 MR. BROOKS: That's fine, judge. And

1 just for the record, also, I just happen to find
2 another copy of Dr. Esten's prior testimony, which
3 I will give to Mr. Kane this morning.
4 THE COURT: Very well. Shall we bring
5 our jury in?
6 (Thereupon, the jury entered the courtroom.)
7 THE COURT: Welcome back, ladies and
8 gentlemen. Let the record reflect that we are
9 again present in the matter of State versus Budd.
10 You may be seated. All parties are present with
11 counsel.
12 Will you stipulate, please, to the
13 presence of the jury?
14 MR. O'BRIEN: We will, your Honor.
15 MR. KANE: Yes.
16 THE COURT: Ladies and gentlemen, we're
17 actually here still in the matter that we referred
18 to as State versus Budd, but it's almost as if
19 we're starting another trial. Our attorneys are
20 going to both be able to make opening statements
21 and then, in fact, they will be calling witnesses
22 to testify for their side of the case.
23 Again I want to remind you, opening
24 statements are not evidence. In fact, no comments
25 made by our attorneys, whether they be in the form

1 of a question posed or comments made, are
2 evidence, and you cannot consider them in this
3 phase of the proceeding. All of the evidence, if
4 any, that is submitted during this phase of our
5 trial will go with you back into your deliberation
6 room. And as always, that which you can consider
7 as evidence, other than that which has been
8 admitted, is the testimony of witnesses who will
9 be here in court sworn or who may testify through
10 another form of a previously transcribed court
11 proceeding.
12 With that in mind, Mr. Kane, are you
13 ready to proceed?
14 MR. KANE: Yes, your Honor.
15 Briefly, ladies and gentlemen, no one
16 envies the task that you're about to undertake,
17 and no one envies the testimony that you're going
18 to have to listen to over the next several hours.
19 It's going to be emotional, and it's going to be
20 difficult to handle. And I just want to give you
21 a brief explanation of why you're listening to it.
22 You'll get some very detailed instructions at the
23 end of this penalty phase that will tell you how
24 you consider various types of evidence, the legal
25 test that you have to apply to even get to a point

1 where the defendant is eligible for the death
2 penalty, and then the mechanics of coming to your
3 ultimate decision. But what you need to
4 understand now is, you're going to receive
5 basically three kinds of evidence in this or any
6 penalty hearing.
7 The first is evidence concerning
8 aggravating circumstances, and an aggravating
9 circumstance is a legally defined set of facts
10 which make a person eligible for the death
11 penalty. They don't mandate the death penalty.
12 The death penalty is never mandated. But there is
13 a list of what we call statutory aggravators. And
14 the State has to prove at least one of those
15 beyond a reasonable doubt before we even get into
16 any discussion of the death penalty. Now, you
17 won't hear any evidence in the course of this
18 penalty hearing about the statutory aggrevator
19 that we've alleged in this case. And we've only
20 alleged one, and that's because the statutory
21 aggrevator that we're relying on is the fact that
22 the defendant was convicted of more than one count
23 of first degree murder in this very case. And
24 we're not going to be presenting evidence to you,
25 because you're the people that did that, and you

1 obviously know that. So, that's the aggrevator
2 that we're going to be relying on.
3 The second type of evidence that you're
4 going to be hearing is mitigating evidence, and
5 that evidence will come, for the most part, from
6 the defense. It's evidence that tends to mitigate
7 the seriousness of the offense or argue in favor
8 of the defendant and impact on your penalty
9 decision.
10 The third kind of evidence you'll hear is
11 everything else that doesn't fit into the two
12 cubbyholes of aggrevator evidence or mitigating
13 evidence. And the kind of evidence that you'll be
14 hearing in this third phase from the prosecution,
15 that will be evidence from the family members of
16 the three deceased young men. And the reason you
17 listen to that is because the law says that in
18 making a serious determination like you're about
19 to make, there isn't more serious determination
20 than whether or not to impose a penalty of death.
21 You should have all the available information.
22 And among the classes of information that the law
23 allows you to consider are the character of the
24 victims, what kind of people they were, who they
25 were, and also the impact that their death has had

1 on their family members.
2 Their family members will not ask you to
3 impose a specific legal penalty. In fact, they're
4 precluded from doing that. But what you're going
5 to hear from them is, here's what Dajon Jones was
6 like. Here's what Derrick Jones was like. Here's
7 what Jason Moore was like. And here's how his
8 death has affected us and continues to affect us
9 as family members. And once you've heard all that
10 evidence, as I said, you'll get some fairly
11 complicated legal instructions, which we'll go
12 over with you, and they will prescribe the
13 mechanics of how you make the difficult decision
14 that you'll be faced with probably sometime
15 tomorrow. Thank you.
16 THE COURT: Mr. Brooks or Mr. O'Brien?
17 MR. O'BRIEN: Thank you. Good morning.
18 I'm here to ask you for life. Jason Moore was 19
19 years old. Derrick Jones was 19 years old. Dajon
20 Jones was 14 years old when they were gunned down
21 and killed. I'm here to ask you for life. This
22 devastated three families. I'm here to ask you
23 for life in the weight of so much death and
24 sorrow. I'm here to ask you for life, because
25 another death is not going to change any of that.

1 You've convicted Glenford Budd of these
2 three murders, and we accept your verdict. It's
3 such a terrible crime, the killing of three
4 friends. It's such a terrible crime. I think
5 we're all forced to ask why. I find it hard to
6 believe that this was just solely based on some
7 stolen pot. I tend to think there was more, and
8 we're forced to ask why. Now, if Glenford Budd
9 had a terrible criminal history, that would help,
10 help answer that question. If Glenford Budd had a
11 progressing criminal history, that would help
12 answer that question of why. If he's been
13 grooming himself for this, that would make sense
14 to us. But you're going to find out that Glenford
15 has no criminal history. He has one juvenile
16 entry, nothing else. If Glenford Budd was just a
17 stone-cold killer, a sociopath who killed or hurt
18 because he liked it, that would answer the
19 question of why. But he's not.
20 You're going to learn he had no violence
21 in his record. You're going to hear from family
22 and friends that he was a quiet, shy boy with
23 never any cruel behavior. But still we're, we're
24 faced with the why. Atticus Finch in "To Kill a
25 Mockingbird" said to his daughter, Scout, before

1 you can judge a man you have to stand in his shoes
2 and walk around in them. And that makes a lot of
3 sense, because we are the sum of our experiences,
4 our relationships, our education, and our
5 successes. What you're going to learn during this
6 part of the proceedings is that Glenford had once
7 lived a life that consisted of one fractured
8 relationship after another. School for Glenford
9 wasn't a ticket out. It wasn't a ticket up. It
10 wasn't a way to get validated. Glenford didn't
11 increase his self-esteem at school. It wasn't
12 because he didn't try. He simply didn't have the
13 ability. His IQ is about 84.
14 Glenford successes, Glenford didn't know
15 many successes. He didn't even know the joy and
16 pride of getting that first paycheck. He never
17 had a job. He was, he is an illegal alien, not
18 through any fault of his own. He was brought to
19 this country when he was 11 years old from Central
20 America. And this was a source of shame for
21 Glenford. It was such a source of shame for
22 Glenford that he hid it. I talked to a best
23 friend of his, and he said, I didn't even know
24 until I was 19 years old. He would make up
25 excuses. There was a problem with my birth

1 certificate. That's why I can't get a social
2 security number. But he held it inside, because
3 he was ashamed. You have to stand in a man's
4 shoes before you can judge him. That's what
5 mitigation evidence is.
6 Mitigation evidence is, it's not an
7 excuse. It's not an attempt to duck
8 responsibility. You've already found Glenford
9 responsible. It's not even a call for leniency,
10 because there is no lenient option for Glenford on
11 the table. He's been locked up since he was 21
12 years of age. And the best result for Glenford
13 now is to be locked up until he dies. There is no
14 lenient options for Glenford. We expect you to
15 severely punish Glenford, but before you do that
16 we would like you to know more about him and his
17 family so you can make an informed decision and a
18 decision that you can all live with.
19 There's a cruel reoccurring theme in
20 Glenford's life. At critical times in his life
21 the rug was pulled out from under him. Every time
22 he would be settled, every time that some hope
23 would start to grow within him, every time he was
24 somewhere he thought he was in a spot where he
25 belonged, something beyond his control would crush

1 that hope. And this happens over and over again
2 at very critical times.
3 Glenford now is 23 years of age. He was
4 born, and he grew up in Belize City in Belize. He
5 was a middle child. He has an older sister, a
6 younger sister, and a younger brother. Glenford's
7 older sister, Charmaine, is 24. She's married and
8 lives in Belize. She has a husband and two
9 children. She wants to talk to you today about
10 how protective Glenford was and what kind of
11 brother he was. In fact, as we speak now she's on
12 an airplane, I trust, arriving from Belize. I
13 hope she makes it. Glenford's younger sister is
14 Angela. She's 21 years of age. She's a young
15 working mother. She lives in Los Angeles. She
16 wants to talk to you about what kind of big
17 brother Glenford was, how he watched out for her,
18 how he comforted her, how he took care of her when
19 she first came to the United States. Glenford's
20 younger brother, his name is Raheem. He's 13
21 years of age now. He's in the eighth grade. He's
22 looking forward to starting high school next year.
23 Glenford and Raheem are very close. During the
24 last couple of years they have been writing and
25 talking to one another. Glenford is always

1 dependent, or excuse me. Raheem has always
2 depended on Glenford. When Glenford lost his
3 stepfather, Raheem's natural father, Raheem leaned
4 on, he was supported by Glenford. He counted on
5 him. And he would like to tell you how he would
6 like to be able to count on him in the future,
7 even if it's only a phone call or a visit.
8 Glenford's mother lives and works in
9 Los Angeles. His father will not speak to you
10 today. He's in prison in Belize. Until he was
11 four years old, Glenford lived in Belize City with
12 his parents. It was, they had a pretty good life.
13 It was a nice, nuclear family. Glenford and at
14 that time his two sisters, both the parents
15 worked. During the day when they were off at
16 work, the grandmother lived right down the street.
17 They would spend time with the grandmother. It
18 was a real good life. At four years of age
19 Glenford's parents split up.
20 Now, divorce isn't all that unusual, but
21 there was an added twist here for Glenford,
22 because when his parents split up at four years of
23 age, his mother left for the United States.
24 Perhaps, like a lot of people from Central America
25 and elsewhere, she believed that, the talk, the

1 dreams about the streets in the US paved with
2 gold. And she told the grandmother, she told the
3 children, I'll send for you guys soon. I'll send
4 for you guys soon. This is when Glenford was four
5 years of age. That short period of time that she
6 had hoped for did not come to pass. Years passed
7 by, years and years. It was seven years before
8 she was able to send for Glenford to be with her
9 in the United States. And here we have an
10 11-year-old boy that's been separated from his
11 mother for seven years. He's been with his
12 grandmother basically since birth. She had such a
13 large part in his early upbringing and, of course,
14 she was the only constant maternal figure in his
15 life. So, at 11 years of age when his mom says, I
16 got it together. Send Glenford to me. We can
17 imagine the fracture in Glenford. It was very
18 bitter sweet for him. He didn't want to leave his
19 grandmother, but he did want to be with his
20 mother. He needed to be with his mother. So, he
21 arrived in Los Angeles at 11 years of age.
22 They lived in Southern California just
23 outside of LA, Montebello. So, here's Glenford,
24 11 years old, coming from Belize. He's small, as
25 he is now. He had a real heavy accent. Naturally

1 Glenford, everybody's going to tell you Glenford's
2 a very quiet, shy, shy guy. Of course, starting
3 school in the US, you know how kids are. That
4 accent and other things, the little differences
5 that kids notice made him withdraw more, and he
6 was even more quiet and more shy. Not only did he
7 have to deal with a new country, a new culture,
8 try to reestablish his bond with his mother, but
9 there was a, a new stepfather in his life, a man
10 by the name of Winston Miller.
11 Glenford's mother, Karen, is going to
12 talk to you about how it affected Glenford when he
13 first arrived here, and she's going to tell you
14 that Glenford was very standoffish with Winston
15 Miller, and she's going to tell you about a story.
16 One time they were having an argument, not a
17 knock-down-drag-out kind of fight but a verbal
18 argument. This was shortly after Glenford arrived
19 here. And as they were arguing, and you have to
20 understand, this Winston Miller was about 6'4".
21 But as they were arguing Little Glenford stepped
22 between them and said, don't you hit my mother.
23 And Winston Miller smiled, and he leaned down, and
24 he said, I would never hit your mother. But I
25 want you to know, I really respect you for doing

1 that. That's what a son should do. I really
2 respect you for sticking up for your mother like
3 that. And that's when their relationship really
4 began.
5 Now, everything I learned about Winston
6 Miller suggest he was a fine man. He didn't try
7 to insert or inject himself into this role as a
8 father. They started a relationship based on a
9 mutual respect and trust. But over time Glenford
10 became extremely close to Winston. He loved and
11 trusted him like a father. Now, he lost that
12 relationship twice. The first time he was about
13 15 years of age. Winston went to prison for a
14 short time, but the family was able to keep it
15 together. They were able to keep the home and the
16 family together. And Mr. Miller came back and was
17 able to work again and was able to provide for
18 their family, and things were going good. They
19 had a nice home. It was three bedrooms. It was
20 in a so-so neighborhood. But they had a good
21 home. They always had food. Things were going
22 real well.
23 When Glenford was 18, they were, in fact,
24 at a family party in the park. Winston Miller was
25 suddenly struck and killed by a drunk driver. The

1 affect on Glenford was devastating. The affect on
2 the whole family was devastating. Financially
3 they were in turmoil. Glenford's mother, Karen,
4 had to get a second job. And, of course, given
5 the fact she was out of the house so much,
6 somebody had to pick up the slack, and the person
7 who stepped up to do that was Glenford. Glenford
8 helped to clean the house. Glenford took on, on
9 all the responsibilities regarding his little
10 brother, Raheem, who at that time was about eight
11 years old. He would get him ready for school in
12 the morning. He would get him up. He would make
13 sure he brushed his teeth. He would make sure he
14 had clean clothes. He would make sure he had
15 something to eat if he could. Things were tight,
16 and there wasn't always enough food around, but he
17 did all of that. Not only did he do that, but in
18 those evenings in the weeks and months following
19 Raheem's father's death he was the one who would
20 hug and comfort Raheem when he tried to deal with
21 losing his dad. You're going to learn that
22 Glenford was always there for Raheem.
23 His mother told me a funny story. She
24 says, you know, Glenford had a lot to do at that
25 time, and one day he told me, he said, mom, I just

1 need one day to myself, one day a week when it
2 would just be my time, one night a week. So, they
3 talked about it, and they agreed, okay, Friday
4 nights. Friday nights you want to go out with
5 your buddies, that's, that's what you can do. And
6 you're going to learn from the family and from one
7 of Glenford's best friends that on Friday nights
8 Glenford would generally let Raheem tag along with
9 him and his buddies, and they would go to a high
10 school basketball game or a football game. On his
11 one free day he always went out of his way to
12 include Raheem in whatever he was doing.
13 They lost the fight, though. They
14 couldn't keep their house. They tried, and they
15 tried. The power would be shut off. At times
16 they would run an extension cord from a neighbor's
17 house to their house, and they tried, and they
18 tried, but they were evicted, and they had to
19 leave the family home. They ended up moving to a
20 rougher neighborhood in LA. They got a studio
21 apartment. They had to share it with Karen's
22 sister and her family. It was eight kids or eight
23 people, I should say, in that studio apartment.
24 Karen wouldn't let the kids out, because it was a
25 tough neighborhood. She wanted to keep them in.

1 Even that they couldn't keep together. The money
2 simply wasn't there, and they lost that residence.
3 They were evicted from that residence. They were
4 evicted again. The family this time was
5 separated.
6 Karen and the, Karen and the girls went
7 to one family. Glenford spent time here and there
8 with friends, kind of shuffled around in between
9 various friends. Eventually he had an uncle in
10 Las Vegas here. He decided to come and stay with
11 his Uncle Kirk and his family. But even there
12 Glenford was treated as a second-class citizen,
13 because when the uncle wasn't around, which was
14 quite a bit, the grandmother of that family kind
15 of ruled the roost, and she just didn't think it
16 was right that an outsider would be eating their
17 food, and she wasn't real shy in making it known
18 to Glenford. And Karen's going to tell you about
19 several phone conversations where Glenford would
20 call up and say he has hungry.
21 Now, these things, I tell you, they're
22 not excuses. They're not a defense. And these
23 facts are not a way for Glenford to deny
24 responsibility. You've already held him
25 responsible, and we know he's going to pay for

1 what happened here. These facts are simply the
2 things you must know and understand before you can
3 consider Glenford and his family eligible for the
4 most extreme and controversial punishment our
5 state allows. Thank you.
6 THE COURT: Thank you, Mr. O'Brien.
7 State, are you prepared to call your
8 first witness?
9 MS. PANDUKHT: Yes, your Honor. The
10 State calls Lazon Jones, Jr.
11 THE BAILIFF: Mr. Jones, if you would,
12 remain standing, please, raise your right hand,
13 and face the clerk.
14
15 **LAZON JONES, JR.,**
16 called as a witness, and having been first duly
17 sworn to testify to the truth, the whole truth,
18 and nothing but the truth, was examined and
19 testified as follows:
20
21 THE CLERK: Please be seated. Will you
22 please state your name and spell it for the
23 record?
24 THE WITNESS: Lazon Jones, Jr., L-a-z-o-n
25 J-o-n-e-s J-r.

1 THE COURT: Thank you.
2
3 DIRECT EXAMINATION
4 BY MS. PANDUKHT:
5 Q. Lazon, you testified earlier at the trial
6 in this case.
7 Could you tell us again about your
8 brother, Dajon?
9 A. He was a good person. He didn't deserve
10 what happened to him. He should still be here
11 today with his family. His life was taken too
12 young. He didn't deserve what happened to him at
13 all. And it's hard for us every day to live with
14 that, because he should still be here.
15 MS. PANDUKHT: If I can approach the
16 witness.
17 THE COURT: Yes.
18 BY MS. PANDUKHT:
19 Q. Lazon, I'm showing you what's been marked
20 as State's Proposed Exhibits 51, 52, and 53.
21 Could you take a look at these? Do you recognize
22 the person in these photographs?
23 A. Yes.
24 Q. Who is the person in all three
25 photographs?

1 A. My brother.
2 Q. Your brother, Dajon?
3 A. Yes, ma'am.
4 MS. PANDUKHT: State moves to admit and
5 publish for the jury State's Proposed Exhibit 51,
6 52, and 53.
7 THE COURT: Objection?
8 MR. O'BRIEN: No objection.
9 THE COURT: They will be admitted.
10 MS. PANDUKHT: Yes. May I publish?
11 THE COURT: Yes.
12 BY MS. PANDUKHT:
13 Q. That is, for the record, State's Exhibit
14 No. 51, State's Exhibit 52, State's Exhibit 53.
15 Lazon, you lived with your brother,
16 didn't you?
17 A. Yes, ma'am.
18 Q. Did you live with him your entire life?
19 A. Yes, ma'am.
20 Q. His entire life?
21 A. Yes, ma'am.
22 Q. What kinds of things did you and your
23 brother do together?
24 A. We did a lot. We hung out, played
25 basketball. We did a lot of fighting and arguing,

1 but I loved him.
2 Q. You loved your brother?
3 A. Yes, ma'am.
4 Q. Were you close to your brother?
5 A. Yes, ma'am.
6 Q. How has his murder affected you?
7 A. It's been, it's made it hard for me to
8 get my life on track the way it should be. It's
9 hard for me to do a lot of things that I already
10 can't really do, having to live with the fact of
11 what happened to --
12 Q. Has it been hard for you to move on since
13 his death?
14 A. Yes. It's been difficult, but I have
15 tried, and I have done better to improve my life
16 after the fact. But it's made it very hard for me
17 and my family.
18 Q. I remember from the trial that you, you
19 said that you and your family went in afterwards
20 to pack up your things.
21 Why did you move away from Las Vegas?
22 A. Because I couldn't be out here anymore
23 after what happened. I wasn't being able to feel
24 safe going to school out there after what
25 happened. I didn't feel safe after that.

1 Q. And what about Dajon? What grade was he
2 in or what school?
3 A. I don't actually know what school he was
4 going to out there, but my mom was trying to get
5 him in school, because he had just came out there,
6 but he was in around the seventh grade.
7 Q. About the seventh grade?
8 A. Yeah.
9 Q. How about the rest of your family? How
10 has his murder affected the rest of your family
11 members?
12 A. It's been three years, and to this day my
13 mother still isn't all right after what happened.
14 It's still hard for her. She still going through
15 a lot of rough situations right now. She's not on
16 her feet yet after three long years. She's still
17 trying.
18 Q. And what about your father?
19 A. My dad is doing the best right now,
20 because he's supporting all of the weight that no
21 one else can hold. He's handling everything for
22 us, and I love him for that. He's the shoulder
23 we're all leaning on right now.
24 Q. And is your father here today?
25 A. Yes, ma'am.

1 Q. Did you have any other brothers and
2 sisters?
3 A. I have three more sisters, and I have a
4 recent younger brother. He's three now. He never
5 met his older brother.
6 Q. What's his name?
7 A. Yavion.
8 Q. Can you spell that for the record?
9 A. Y-a-v-i-o-n Jones.
10 Q. And how about your sisters? What are
11 their names?
12 A. Kokitha Jones, Yateefa Jones, and Yatisha
13 Jones.
14 Q. Could you spell all of their names, also,
15 for the record?
16 A. K-o-k-i-t-h-a, Y-a-t-e-e-f-a,
17 Y-a-t-i-s-h-a.
18 Q. Is there anything else you would like the
19 jury to know about your brother?
20 A. Just to know that he was too young. He
21 didn't deserve what happened to him.
22 So, whatever you guys decide, just make
23 sure it's the right thing, because we deserve
24 justice for what happened, nothing less, nothing
25 more.

1 MS. PANDUKHT: Thank you. Lazon.
2 THE WITNESS: Thank you.
3 THE COURT: Hang on a second.
4 Is there cross-examination?
5 MR. O'BRIEN: Lazon, we're very sorry for
6 your loss. I have no questions.
7 THE COURT: You may step down, sir.
8 Who's next?
9 MR. KANE: Kokitha Jones, your Honor.
10 THE BAILIFF: Ms. Jones, if you'll remain
11 standing, please, raise your right hand, and face
12 the clerk.
13
14 **KOKITHA JONES**,
15 called as a witness, and having been first duly
16 sworn to testify to the truth, the whole truth,
17 and nothing but the truth, was examined and
18 testified as follows:
19
20 THE CLERK: Please be seated. Will you
21 please state your name and spell it for the
22 record?
23 THE WITNESS: My name is Kokitha Jones.
24 It's spelled K-o-k-i-t-h-a J-o-n-e-s.
25 THE CLERK: Thank you.

1 DIRECT EXAMINATION

2 BY MR. KANE:

3 Q. Kokitha, are you Lazon's and Dajon's

4 sister?

5 A. I'm their older sister out the whole

6 pack.

7 Q. And you were here in court just now while

8 Lazon was testifying. Am I right?

9 A. Yes, sir.

10 Q. What would you like to tell the jury

11 about your brother, Dajon, what kind of person he

12 was?

13 A. My little brother was the type of person

14 that needed extra love and care, because our

15 family, as well as Budd's family, broke up. We've

16 been through the hard times. We done lost places

17 to live. We had to come up the best way that we

18 could as well. And when my mother and father

19 divorced, it tore my little brother into shreds.

20 He just couldn't take it, because he needed his

21 mother and his father. He was the type of kid

22 that couldn't live without a mother.

23 And me and my little brother, we didn't

24 get along as good, but I can honestly say my

25 little brothers was my big brothers. Whenever I

1 needed to lean on them or I needed somebody to
2 depend on, to depend on, it was my little
3 brothers. And my, and my little brother had
4 recently, before he died we had got into a fight,
5 and it was right before I had left Las Vegas. And
6 he called me about, I can say two days before his
7 death, because we went through the cursing each
8 other out, the fighting, the punches, you know,
9 all that stuff. And he told me, sister, I'm
10 sorry. He said, I love you. He was like, and
11 when you come back out here, I'm going to take my
12 nephew shopping. Because I had recently, my
13 brother died on May 25th or 26th. I had my son on
14 April 1st, a month before his death. So, he
15 really didn't get to know my son as much, but he
16 was the type that, he was, I can't hold him. Come
17 get him. He too little for me. And I just loved
18 my brother, man, to death.
19 And I also knew Jason and Derrick. They
20 lived with me. I lived in Las Vegas with my
21 mother, and then they previously came out here.
22 Jason and Derrick were good kids. When I first
23 met them, I was like, oh, yeah. They're cool.
24 They're cool. But then I was like, these are more
25 like brothers, because they looked up to me as

1 well as their older sister. Jason, couldn't get
2 him to talk for nothing. He just always sat
3 around and observed and seeing what was going on.
4 I also knew Mr. Budd. When I first met
5 him, I'm like, okay. He's a cool, he's a nice
6 person. But after I got to know him I realized
7 that he wasn't the person that I thought that he
8 was. When his stuff came up missing, these were
9 his exact --
10 MR. O'BRIEN: Your Honor, I'm sorry to
11 interrupt you. May we approach?
12 THE COURT: Certainly.
13 (Conference at the bench.)
14 BY MR. KANE:
15 Q. Is there anything else, and I'll give you
16 a chance to explain how this has affected you and
17 affected your family. But is there anything else
18 that you want to tell the jury about Dajon or
19 about Derrick or about Jason that you think they
20 ought to know in making their decision?
21 A. Just that, like what I said, they were
22 cool boys. They never like picked fights out
23 there with people. They stuck together. They was
24 more like brothers. When you went out, you seen
25 Lazon, Dajon, Derrick, and Jason always. They

1 always didn't want Dajon to hang around, because
2 he was the younger one but, you know, he still
3 followed them around. So, eventually they end up
4 having to accept that he wants to be a part of the
5 crowd.
6 But this has affected me deeply, because
7 I'm like, I just had my baby. I just got through
8 going through the little things that I had already
9 been going through with my child's father. And I
10 had to realize I was falling apart and, and I had
11 to realize, okay. My little brother is gone, and
12 I can't just fall off in the gutter. I have to
13 get myself up and do what I need to do so that I
14 can get far in life, so that eventually one day
15 when the time come, I will see my brother again.
16 This has totally devastated my mother.
17 As you can see, she is not in this courtroom
18 today. My mother, man, she is really going
19 through it. She's seeing psyches right now.
20 She's been seeing them since my little brother's
21 death. She can't get herself together. That's
22 why we're not all together as a family now,
23 because she's still trying to get to our level.
24 We done been there, and then we done got ourselves
25 together, but my mother still trying to catch up

1 to our level. I call her, and I talk to her, and
2 all I can do is tell her I'm sorry and I love her.
3 I recently, in school, wrote a report on my little
4 brother's death, and my mother wrote a letter that
5 tore me to shreds, broke me down in tears. And
6 the only thing she blame herself, is for not
7 giving her kids the protection that she thought
8 they should have. She felt as if she was
9 friendly, friendly and cool with us, then
10 everything would be okay. But she soon to realize
11 that there was more to it than just being a friend
12 with your children.
13 And my father and my grandmother, they
14 have, my grandmother, that was her boy, Dajon
15 Jones. That was her boy. Every time he got into
16 an argument or he just didn't want to be at home
17 no more, grandma, come get me. I don't feel
18 they're treating me right. Come get me. She
19 would go get him, or he would make his way to my
20 grandma house. Foot, bus, bike, however he had to
21 get there, he made it there. And when he run away
22 from home, we knew who to call, grandma, because
23 that's where he was at.
24 And my dad, he's not the type that's like
25 emotional, that show his emotions, but I can see

1 deep down inside that he is very hurt from this.
2 And all he's doing is recovering from a tragedy
3 that's happened in his life as well as ours. We
4 recently, two years before my brother's death we
5 lost a cousin. That's my mom's sister's only son.
6 So, now she lost two boys that are important to
7 her. So, she's really devastated. But my dad,
8 he's coming along pretty good. He's doing what it
9 take to get his self together and as well as to
10 build a community for our family. And we're
11 slowly building our community, gaining our respect
12 back up for each other, because everybody pointed
13 the finger at somebody. And then we all had to
14 realize it was just, I guess, his time to go. The
15 Lord called him, and he went home.
16 And I have nothing further more to say.
17 MR. KANE: I have no further questions,
18 your Honor.
19 THE COURT: Mr. O'Brien?
20 MR. O'BRIEN: Thank you, your Honor. No
21 questions.
22 THE COURT: You may step down.
23 Who's next?
24 MS. PANDUKHT: Judge, can we have a
25 minute?

1 MR. KANE: Earl Moore, your Honor.
2 THE BAILIFF: Mr. Moore, if you'll remain
3 standing, please, raise your right hand, and face
4 the clerk.
5
6 **EARL MOORE**,
7 called as a witness, and having been first duly
8 sworn to testify to the truth, the whole truth,
9 and nothing but the truth, was examined and
10 testified as follows:
11
12 THE CLERK: Please be seated. Will you
13 please state your name and spell it for the
14 record?
15 THE WITNESS: Earl Moore, E-a-r-l
16 M-o-o-r-e.
17 THE CLERK: Thank you.
18
19 DIRECT EXAMINATION
20 BY MR. KANE:
21 Q. Sir, when he was alive, what was your
22 relationship to Jason Moore?
23 A. He was my younger son.
24 Q. I want to show you what has been marked
25 for purposes of identification as State's Proposed

1 Exhibits 57, 58, and 59.
2 Would you look at those, please, and tell
3 me if those are pictures of your son?
4 A. Yes.
5 MR. KANE: Offer 57, 58, and 59, your
6 Honor.
7 MR. O'BRIEN: No objection.
8 THE COURT: They will be admitted.
9 MR. KANE: And may I publish, your Honor?
10 THE COURT: You may.
11 BY MR. KANE:
12 Q. State's Exhibit 57, State's Exhibit 58,
13 State's Exhibit 59.
14 Sir, would you tell the jury a little bit
15 about your son and what kind of person Jason was?
16 A. He has, he was the best son a father
17 could have. You know, it's been two and a half
18 years, and it still seems like a dream. Jason
19 was, I can't explain how he was. He was lovable.
20 He was kind. He was generous, very, very shy,
21 very high standards, very high morals. If I'm not
22 mistaken, I believe that one of the witnesses said
23 that when she heard gunfire, Jason covered her up.
24 That's the type of boy he was. That's the type of
25 son that, we raised him to know good and bad and

1 right and wrong. And he understood that. He was
2 very, very shy in his early life. We tried to get
3 him out of that by enrolling him in Little League.
4 He played Little League until he was like 14 or
5 15, very good athlete, very good person.
6 Q. How has his loss affected you, sir, and
7 the other members of your family?
8 A. Well, we'll never be the same. We will
9 never be the same.
10 Q. You've sat here through the trial,
11 correct?
12 A. Yes, sir.
13 Q. Has that helped any in resolving any of
14 these issues?
15 A. To be perfectly honest with you, no,
16 because we were homeless. I believe everybody in
17 this room can go back and say what happened to
18 them and this and that. I could tell you stories
19 that will make that story sound like a fantasy.
20 We were homeless when we came to San Bernardino.
21 We were homeless. Jason was homeless, but he knew
22 good and bad. He knew right and wrong. He was
23 never a person, and I want to make this very, very
24 clear to the jury, is that whenever you hear a
25 shooting with young black men, that it's gang

1 related, or it's drug related. Jason was not like
2 that.
3 Jason was a high school graduate. Jason
4 had a very short stint in the U.S. Navy. His life
5 was taken from him. And they said that they were
6 friends. They were not friends. Jason was only
7 down there for one week. He never even knew what
8 was going on. He was just there trying to fit in.
9 That's what Jason, Jason was a follower. He
10 wasn't a leader.
11 Q. Is there anything else that you think the
12 jury needs to know either about Jason or what this
13 has done to you and your family?
14 A. What it's done to our family, I feel so
15 sorry, so bad for my wife, because, you know, it's
16 just, she just can't even, you know, she's on
17 medication and stuff, and she just, my two
18 daughters over there, I have another daughter, you
19 know. We just, like there are no more
20 Christmases. There is no more Thanksgiving.
21 There is no more holidays for us. There is no
22 more holidays for us. We can't have our son there
23 with us. There is no more holidays for us ever
24 again in life. This is what this has done to us.
25 We can't talk to him. We can't call him.

1 I'm an independent truck driver. My
2 dream was to have my son with me on my truck, Earl
3 Moore & son. That was my dream. This is taken
4 away. It's like I've lost both of my legs, and
5 they will never be back again. Our family will
6 never be the same.
7 MR. KANE: Thank you, Mr. Moore. I have
8 nothing further.
9 THE COURT: Mr. O'Brien?
10 MR. O'BRIEN: No questions.
11 THE COURT: You may step down, sir.
12 THE WITNESS: Thank you.
13 THE COURT: Who's next?
14 MS. PANDUKHT: The State calls Linda
15 Moore.
16 THE BAILIFF: Ms. Moore, if you would,
17 remain standing, please, raise your right hand,
18 and face the clerk.
19
20 **LINDA MOORE**,
21 called as a witness, and having been first duly
22 sworn to testify to the truth, the whole truth,
23 and nothing but the truth, was examined and
24 testified as follows:
25 . . . . .

1 THE CLERK: Please be seated. Will you
2 please state your name and spell it for the
3 record?
4 THE WITNESS: My name is Linda Moore,
5 L-i-n-d-a M double o-r-e.
6 THE CLERK: Thank you.
7
8 DIRECT EXAMINATION
9 BY MS. PANDUKHT:
10 Q. What was your relationship to Jason
11 Moore?
12 A. I was Jason's mom.
13 Q. And --
14 A. I'm, excuse me. He always called me
15 mommy, no matter what.
16 Q. And you have three daughters?
17 A. Yes, I do, Cameron, Adrian, and Marissa.
18 Q. And two of your daughters are here today
19 with you?
20 A. Yes.
21 Q. Is there a reason your third daughter
22 couldn't be here with you?
23 A. Yes. She's in law school, and they're
24 having finals this week. So, she couldn't be
25 here.

1 Q. How hard has your son's death been on
2 you?
3 A. It's been devastating. For a while I was
4 really, really in a very deep depression that I
5 had to take some time off from my job, about six
6 months, because I couldn't function. I'm on
7 medication, still on medication, and sometimes it
8 works. Sometimes it doesn't. It's, it's hard for
9 me to get up and go to work. I know I have to,
10 but it's hard. I wish I could just stop the world
11 and take a break or something, because every day,
12 there's not a day that goes by that I don't think
13 about my baby. And he was my baby. He was my
14 only son, and he, he did everything for me.
15 He was the fix-it man around the house.
16 When I buy things that had to be put together, I
17 say, Jason, put this together for me, and Jason
18 would do it. I like to work outside in the garden
19 in the yard, and Jason would go, I would love to
20 go and show him off with me, my big, handsome son,
21 strong son, at the, like Home Depot or whatever.
22 When we would gather up things that I wanted to
23 plant, and I would say, Jason, put that here for
24 me. Jason, do this for me. And Jason always did
25 it. He didn't complain. He did it. And he knew

1 that I loved him for that. He was my son. He was
2 a mama's boy. I kept him close to me.
3 And now I don't have him anymore, and I
4 don't know what to do. It's just awful. And when
5 I think about when he was young, when I first saw
6 him when he was first born, I looked at him, and I
7 said, oh, my god. This is such a beautiful baby.
8 And everyone that would see Jason will tell me how
9 handsome and beautiful he was. And he was shy
10 just like his father said. And we put him in
11 Little League to try to get that shyness out of
12 him.
13 Q. Ms. Moore, did you bring some pictures
14 with you today?
15 A. Yes, I did.
16 Q. We've had them marked as State's Proposed
17 Exhibits 60 through 66. Could you look at these
18 and tell me, these are the photographs that you
19 brought?
20 A. Yes.
21 Q. These are all photographs, 60 through 66,
22 of your son, Jason?
23 A. Yes.
24 MS. PANDUKHT: Move to admit and publish
25 to the jury.

1 MR. O'BRIEN: No objection, your Honor.
2 THE COURT: It will be admitted, and you
3 may publish.
4 BY MS. PANDUKHT:
5 Q. What I would like you to do, Ms. Moore,
6 is, I'm going to show you them one at a time, and
7 I would like you to tell the jury about the
8 picture.
9 First number 60, and I'm going to bring
10 this back down.
11 A. That's Jason one day old. And he was so
12 beautiful. And all I had was thoughts of what he
13 could be, what he might be. And that's all I saw
14 in him.
15 Q. Could you tell us about number 61?
16 A. That was Jason's first Christmas. It
17 was, he was like maybe three months old. And you
18 can see that he's crying. He always did cry.
19 And, you know, and the lamb he had across his lap,
20 he grew up with that lamb. He used to call it
21 Lammy and, you know.
22 Q. What about number 62?
23 A. That's Jason in preschool. He was
24 graduating from preschool. And I thought that was
25 the most handsome picture I had ever seen of my

1 son.
2 Q. And how did you get him to smile?
3 A. At that time it was easy to get him to
4 smile. He was so young and innocent. He knew he
5 had to take a picture for his mom.
6 Q. You also mentioned he was in Little
7 League. Could you tell the jury about number 63?
8 A. That's the first team he was on. I think
9 he was about nine, I believe. And Jason was a
10 natural athlete. I remember one time we were
11 sitting in the stands, and Jason was playing
12 outfield. And Jason threw the ball all the way to
13 home plate. And someone in the stand said, whose
14 boy is that? And I turned around. I said, that's
15 my boy. Because he was so good. He was so good.
16 And we used to make sure we went to every game.
17 His father was a truck driver, and he would
18 arrange his schedule to make sure he's in town to
19 see Jason play. And if he knew he was going to be
20 late, he would tell me, you make sure Jason sees
21 you. You sit in the stand, and you, make sure he
22 sees you. And that's what I did. That's what I
23 did.
24 Q. How about number 64?
25 A. That's Jason. I think he's about 15 or

1 16. That was the last time he played for Little
2 League. And by then he wouldn't smile for me. I
3 used to stand by the cameraman and make faces,
4 trying to get him to smile, but he never would.
5 Q. Could you tell the jury about number 65?
6 Who's in this picture?
7 A. Those are his three sisters. This is
8 Adrian, Marissa, and Cameron and Jason. He took a
9 picture just like I expected. And I used to love
10 his cheeks. I used to like to kiss his cheeks.
11 And he would shy away from me, but I just, he was
12 my boy.
13 Q. How old was he in this picture?
14 A. I believe he was like maybe 15.
15 Q. And was he the oldest?
16 A. No. He was the second. Marissa is the
17 oldest.
18 Q. And finally, number 66?
19 A. That's the last Christmas that we've had.
20 We haven't had any more since Jason's been gone.
21 Like my husband says, no holidays, no nothing. I
22 tried to do something last year, but it didn't
23 work out, because we had an empty table, a empty
24 chair sitting at the table where Jason used to
25 sit. And it was just awful.

1 Q. Who's in this picture?
2 A. His three sisters, Cameron, Marissa, and
3 Adrian.
4 Q. And did you always spend all the holidays
5 together, the whole family?
6 A. Yes, we did. We did a lot of family
7 things. We played games together. We played, the
8 kids had a basketball court. They played
9 together. I mean, Jason was closer to his younger
10 sisters. One time he was outside playing mud pies
11 with them. I mean, that's the way he was. And at
12 the family get-togethers Jason would never eat
13 anyone's cooking but mine. And I used to laugh
14 about it and thought that was so cute.
15 I don't know what to say, you know. I
16 miss my son. You know, all of this has taken its
17 toll on me. I miss my son.
18 Q. Did he continue to play baseball?
19 A. When he got to high school, he played
20 briefly, but then he suffered a broken arm, and
21 that kind of stopped it. But he did go on and
22 finish high school, and he did get his diploma,
23 and he did join the navy. And I was so proud of
24 him for that.
25 Q. Did he actually get to go to the navy?

1 A. He, he was almost finished with his --
2 what do you call it -- basic training or something
3 like that. But, like the judge says, you have to
4 have a good fit and, you know, he was basically
5 not a good fit for the navy. But he tried. But
6 he also would listen to us. And I told him, I
7 said, well, Jason, you need to go back to school.
8 And he was making plans to go back to school.
9 Q. How has your son's murder affected you
10 and your family?
11 A. It's torn us apart. It's, it's, it's
12 like part of my heart is missing, and it's, it was
13 torn out, and nothing can, can heal it. You know,
14 every day, you know, I get up. It's a struggle.
15 Every day I get up it's a struggle. His sister,
16 Cameron, she had started cutting herself, because
17 she was upset, you know, about Jason, because they
18 were close. It's just, it's just awful.
19 My older daughter, she told me about
20 maybe a month ago one, in one of her classes they
21 were discussing -- well, I don't know if I can say
22 this -- capital punishment or whatever. And
23 someone told her in class, not knowing her
24 background, that she wouldn't feel the way she
25 felt if something had happened to someone in her

1 family like that. And she said she just broke
2 down. And people were looking at her, because
3 they didn't understand why she was crying and, and
4 why she was hysterical. And it's, it's affected
5 us very deeply.
6 And I don't know if I'll ever get over
7 this. I'll probably go to my grave feeling the
8 way I'm feeling.
9 Q. Is there anything else that you would
10 like this jury to know?
11 A. Jason was a loving son, and he called me
12 mommy. No, I mean, he was 19. He still called me
13 mommy. And I just loved him for that. I don't
14 have anything else to say.
15 MS. PANDUKHT: Thank you, Mrs. Moore.
16 THE COURT: Mr. O'Brien?
17 MR. O'BRIEN: We're very sorry, ma'am. I
18 have no questions.
19 THE COURT: You may step down.
20 Who's next, Mr. Kane? Ms. Pandukht?
21 MR. KANE: Can we approach, your Honor?
22 THE COURT: Certainly.
23 (Conference at the bench.)
24 THE COURT: Ladies and gentlemen, we're
25 going to take our lunch recess. Today it's going

1 to be very, very brief. In fact, I have made
2 arrangements through our court administration to
3 provide you with a lunch that will be served here
4 in the back of the courtroom. So, you'll go with
5 Mr. Bailiff, and you certainly can take a break
6 before you have your lunch, but we'll come back in
7 pretty short order.
8 I do want you to remember, however, that
9 during our lunch recess it's your duty not to
10 discuss this case among yourselves or with anyone
11 else. Don't read, watch, listen to a report of or
12 commentary on anything which might be associated
13 with this matter. Don't form or express an
14 opinion in any of these issues until it has been
15 fully and finally submitted to you under
16 instruction of law by me.
17 I'm going to ask you to wait until the
18 bailiff comes back into the courtroom, because he
19 will take you where you need to go.
20 Mr. Bailiff, can you take care of the
21 jury for our lunch?
22 We'll be in recess until approximately
23 1:00, 1:10, 1:15 according to my watch right now,
24 which is a little bit longer than I would like to
25 go. But we'll go that long if we need it.

1 (Recess taken.)
2 THE COURT: Any matters we have to take
3 up outside the presence?
4 MS. PANDUKHT: I did, but it became
5 resolved by the time you got on the bench.
6 THE COURT: Okay. Then let's get the
7 jury.
8 Do you have your next witness ready?
9 MS. PANDUKHT: Yeah.
10 THE COURT: Why don't we go ahead and get
11 them up here on the stand, and then we'll bring
12 the jury.
13 (Thereupon, the jury entered the courtroom.)
14 THE COURT: Welcome back. Let the record
15 reflect we are again present in the matter of
16 State versus Budd. All parties are present.
17 Counsel, will you stipulate to the
18 presence of all the jury?
19 MS. PANDUKHT: Yes.
20 THE COURT: Mr. O'Brien?
21 MR. O'BRIEN: We will, your Honor.
22 THE COURT: Very well. We have a witness
23 already here in the stand.
24 Mr. Pandukht, for the record would you
25 please state the witness's name?

1 MS. PANDUKHT: Yes, Lizzie Jones.
2 THE COURT: Ms. Jones, would you stand,
3 please, and raise your right hand?
4
5 **LIZZIE JONES,**
6 called as a witness, and having been first duly
7 sworn to testify to the truth, the whole truth,
8 and nothing but the truth, was examined and
9 testified as follows:
10
11 THE CLERK: Please be seated. Will you
12 please state your name and spell it for the
13 record?
14 THE WITNESS: My name is Lizzie,
15 L-i-z-z-i-e, Jones, J-o-n-e-s.
16 THE CLERK: Thank you.
17
18 DIRECT EXAMINATION
19 BY MS. PANDUKHT:
20 Q. Ms. Jones, what was your relationship to
21 Derrick Jones, Jr.
22 A. I, I was his grandmother before I adopted
23 him as my son. He's my oldest son's child.
24 Q. And I would like to show you some
25 photographs.

1 May I approach the witness?
2 THE COURT: You may.
3 BY MS. PANDUKHT:
4 Q. I'm showing you what we have had marked
5 as State's Proposed Exhibits 54, 55, and 56.
6 Could you look at these photographs and
7 tell me if you recognize who is in them?
8 A. That's Derrick, Jr.
9 Q. In all three photographs?
10 A. All three.
11 MS. PANDUKHT: Move to admit and publish
12 for the jury.
13 MR. O'BRIEN: No objection, your Honor.
14 THE COURT: It will be admitted, and you
15 may publish.
16 BY MS. PANDUKHT:
17 Q. This is State's Exhibit 54, State's
18 Exhibit 55, State's Exhibit 56.
19 Ms. Jones, I have what is marked, a
20 photocopy of State's Proposed Exhibit 67. And I
21 have the actual photograph here. Who is this?
22 A. My great grandson, Derrick's little boy.
23 Q. How old was he when this picture was
24 taken?
25 A. I think little DJ was about seven or

1 eight months old, maybe a year. He's two and a
2 half now.
3 MS. PANDUKHT: And, judge, this is the
4 only copy we have of the photograph. So, I'm
5 having this moved into evidence, the photocopy,
6 but if I can publish, move to admit and publish
7 the actual photograph --
8 MR. O'BRIEN: No objection, your Honor.
9 THE COURT: You may do so.
10 BY MS. PANDUKHT:
11 Q. And that, for the record, was State's
12 Exhibit 67.
13 Could you tell us about your grandson,
14 adopted son?
15 A. Well, Derrick was born November the 12th,
16 1983, and he was about two weeks old, and his
17 mother called me and said, I got your grandson,
18 Ms. Jones. So, I went to her aunt's address that
19 she gave me and picked him up. I'm sorry. This
20 is going to be kind of rough, hard for me, because
21 since Derrick's death I developed a heart
22 condition.
23 He was such a beautiful baby. And as,
24 growing up, I raised him. Because I was so close
25 to him, his mom and my son say, you know, we just

1 going to go ahead and let you take him. I spoiled
2 him, gave him everything, you know. We moved up
3 to Hesperia, California in 1990, November the 8th.
4 He went to all the schools from kindergarten up to
5 the high school, and he graduate from Hesperia,
6 Hesperia High School. He went to VVC, Victor
7 Valley College for not even a year, because he,
8 his dream was coming to Las Vegas. We would take
9 trips here three and four times a year, our
10 vacations. And so he said, I'm going to go to
11 Las Vegas and get me a job, grandma, and get
12 married. But he was engaged before he left to
13 Pamela Miranda, and she was pregnant with a baby
14 boy. She came to Vegas on Charleston to the
15 apartment and visit him maybe not even, not even a
16 month or maybe two or three weeks -- so I might be
17 just off a little bit on the time -- before he got
18 killed.
19 I spoke with him on the phone on the 26th
20 about 9:45 at night. He was living at the two
21 young men house over on Charleston, at their
22 apartment I mean. And he called me, and he said
23 he's coming to his brother's graduation, Samuel's
24 graduation and to Pam's graduation. And he said
25 Pam had already sent him the money to take the

1 bus. He stated that he had went and applied for a
2 job, he and, he and AI, which I met AI Mother's
3 Day the same year that Derrick was killed. I
4 bought the kids to a track meet. But I'm trying,
5 kind of getting off track here about Derrick.
6 Derrick loved to play sports. He loved
7 sports, basketball, football, baseball. And he
8 didn't meet no strangers. I'm not trying to paint
9 him as being the perfect young man. I'm saying
10 that everybody he meet was his homey, his friend.
11 He had kind of little tight-tongued boys, and he
12 would, grandma, that's my friend there. Meet my
13 friend. And he would just give his last to
14 people. He didn't look down on nobody, because he
15 was good-looking, handsome with the natural,
16 curly, straight hair, because his mom is Indian,
17 and his dad is black, which is my son. And he
18 just didn't paint no picture of a person being
19 ugly or don't have it, because, you know, he has
20 it all, you know, in a sense, because I worked
21 hard for that.
22 So, I made sure my adopted son, my
23 grandson, my children didn't have to go out and
24 beg, although maybe I spoiled him a little bit too
25 much, you know, because I didn't want him to leave

1 home. I begged him not to leave. He said,
2 grandma, I'm 19 now. I want to get out. I don't
3 want to be cluttered in all the time. I begged
4 him to get a job there and stay in VVC. He wanted
5 to come to Las Vegas. That was his dream.
6 And I just, you know, it just took a lot
7 out of me when I got that phone call that he was,
8 that he was, you know, had been shot. And then
9 the next phone call from the hospital, the doctor
10 called me and told me that he was, he had expired,
11 you know. And, because I was on my way out the
12 door to come here, because he was injured, to
13 drive and, you know, to see, to see about him, you
14 know. I, and I learned the friend, you know, that
15 he said it was his friend. They played ball.
16 They went job seeking together. How could you do
17 that to a friend? How could a friend do that to a
18 friend? If it was money, I would have sent it to
19 him over night, whatever, you know. I didn't
20 actually see this person do this, but this is what
21 was told to me by the detective. So, I have to go
22 along with what they said.
23 But Derrick never seen his little boy.
24 His baby never seen him. The baby was due October
25 the 8th. Pamela couldn't hold the baby after

1 Derrick was murdered. She just was so stressed.
2 The baby came July 8th. He had a lot of problems.
3 We call him the miracle baby. He had tubes all
4 over him, problems with his hearing, problems with
5 his digesting system. The little boy, we call him
6 the miracle baby. And he looks just like his
7 daddy. But he don't know who his daddy is. He
8 can't see his daddy. Daddy is dead. Father can't
9 see the child. The child can't see the daddy, you
10 know, vice versa. But that's his first born.
11 Like I said, Derrick did not look down at
12 anybody. He was a very nice young man to know,
13 very nice young man, very polite to older people.
14 And you wouldn't believe this, but he never talked
15 back to me. He never cursed me. He never made a
16 mumbling word when I would get on his case. And
17 I'm a tough, tough grandmother and a tough mom.
18 He never talked back. And I give him that. I
19 gave that to him. When he was living, I said, you
20 know what? You never talk back to me. There is
21 nothing I wouldn't do for you. Please don't
22 leave. I didn't want to just give him everything,
23 give him a car. He had nice clothes, give him
24 everything. He needed to get out and earn things,
25 you know, so he can appreciate it better when he

1 earn it.
2 Q. So, what impact has his murder had on you
3 personally?
4 A. Pardon me?
5 Q. What impact has his murder had on you
6 personally?
7 A. It woke me up to people. I stopped
8 seeing, I stopped dating this guy I was dating
9 because, and then I stopped associating with
10 certain people when I noticed attitudes in them.
11 It's hard to kind of detect sometime, you know.
12 But it just woke me up that, you know, you never
13 know, you know, who wants to, when I ordered my
14 grandson's, what you call them, the, I can't even
15 think now. You know when they tell you everything
16 that went wrong, and what you call them, at the
17 hospital, the morgue? The thing when I ordered,
18 it was three different pages.
19 Q. Autopsy?
20 A. Autopsy. And it says that he was wet,
21 and he was nude the time that the ambulance picked
22 him up. And, and I just put two and two together.
23 He probably was in the shower or something, you
24 know. I just, it, that itself, it made me realize
25 that you, to appreciate life, to appreciate

1 understanding and know who, you know, find out who
2 a person is before you get so involved, you know.
3 And then it gave me a bad heart, and it just, you
4 know, just, that took a lot out of me. That took
5 a lot out of me, you know, because, first of all,
6 he was young. He was 19 years old the time he was
7 murdered. And that just took a lot out of me, you
8 know.
9 I don't even know. Sometimes I have to
10 pinch myself. Lizzie, is this you? How you going
11 on? How could you go on like this? And then I
12 look at this State of Nevada where I always would
13 come and visit, and I, and at one time we were
14 going to move to Henderson, Nevada. And I said,
15 now how can I live in Nevada when, knowing Derrick
16 got killed in Nevada, you know. I, you won't
17 never know until you lose someone close, because
18 we're a very close family. It might not appear to
19 be, because my older son say, no. His daddy said,
20 no. I can't come and face someone and look at
21 some person that killed my son. And my son say,
22 no. I can't face someone that killed my nephew.
23 And my daughter says, no. I will not go, mom.
24 So, I had to do this, you know, because nobody
25 wants to face this because, you know, they don't

1 want to end up in trouble or, you know. It's
2 hard.
3 Q. How has it affected your children?
4 A. They, that's what I was just saying.
5 Everybody is hurt. We never would get over this.
6 It happened in 2003, but you walk in the houses,
7 we still have the homes. My daughters have their
8 homes. My sons have their homes. And you can
9 just, we all know Derrick was a part of it. He's,
10 he was a part of, because we all was right there
11 in Hesperia on, from Hesperia to Victorville in
12 that desert from the time from 1990 up until
13 Derrick's death. And, like I said, we're still
14 there. And he was always at all these different
15 homes, you know, visiting. And we all did
16 everything together. When you see three, you see
17 us all. When you see 20, you see us all. We just
18 did everything together, everything, gatherings,
19 vacations. And until Derrick came here, of
20 course, without us, people would see him and say,
21 no. Where is your mom? Where is your grandma?
22 Where is your aunt? Where is your uncles? No. I
23 know you're not by yourself here and stuff like
24 that.
25 But, oh, Lord. Help me, Lord. But now

1 we, we watch his little son growing up, you know,
2 and he saying da da, you know. And Pam says, I
3 can't put another man over Derrick's son. So,
4 she's working, and he stays with me sometime and
5 my little child care I have at home. And then she
6 takes him to the day care, too. So, I'm just
7 trying to deal with that, you know. I look at
8 that baby, and he looks so much like his daddy
9 when his daddy was young like that, a toddler.
10 Looks just like him.
11 Q. Is there anything else you would like
12 this jury to know about your grandson?
13 A. I would like to say that my grandson
14 should not have, life should not have been taken
15 like that. He deserved a chance to live, to get,
16 to be older. I won't say my age, though, older
17 like me and other people, you know. He just
18 didn't deserve that. Like I said, whatever money
19 that the person needed, whatever it was, I would
20 have took care of it. And he know. And I'm
21 pretty sure if it was something like that, he
22 would say, my grandma would give me money or
23 whatever. I would give it, you know, to spare his
24 life. Nobody deserve to be slaughtered, shot
25 down. Nobody deserves that, nobody. I don't care

1 how angry a person get. Walk away. Think about
2 it. Nobody deserve it. He was a, he, you know,
3 it was just a waste. He didn't deserve it. He
4 should have been around to be free, laugh, work,
5 take care his baby, you know, because he was a
6 good boy. He was a darn good young man, very
7 respectful.
8 People in the neighborhood, two police
9 live on my street, and they couldn't believe it.
10 Oh, no, not Derrick. My neighbors, he would cut
11 their yards and stuff, you know, run errands to
12 the store for them. Oh, not Derrick. No. No.
13 It just took a toll on everybody, you know. Thank
14 you for hearing me out. I appreciate it.
15 MS. PANDUKHT: Thank you. I have no
16 further questions.
17 MR. O'BRIEN: No questions. Thank you,
18 ma'am.
19 THE COURT: You may step down. Thank
20 you. Who's next?
21 MR. KANE: Judge, the State has no
22 further evidence to present or witnesses to call
23 at the penalty phase. With the understanding that
24 the jury will be instructed that they're allowed
25 to consider the evidence from the first phase of

1 absolutely sure.

2 Let's start with the testimony of Lazon Jones.
3 Lazon Jones came in here and testified, but he never
4 said -- ever -- "I saw Glenford Budd kill these people."
5 What he said was that he did not see the shootings. He
6 was in the apartment, he heard the shots, and he left. He
7 said that he and his friends were drinking alcohol. And
8 in response to my specific question, he denied they were
9 smoking marijuana. He says that Glenford goes into the
10 master bedroom and he hears the shooting. But he also
11 says that he, Lazon, never actually went and looked into
12 the other two bedrooms. So, clearly, he doesn't know if
13 anyone else is in that apartment at that time. Remember,
14 there are three bedrooms in this house -- or apartment --
15 and the shooting occurs in one, but not a single witness
16 can tell you whether somebody else was in that apartment
17 in those other bedrooms.

18 He also says that he left and ran down the
19 stairs, but he never, ever, acknowledges that he ran down
20 the stairs with another person. Yet, we know that's what
21 happened. He ran down the stairs with Krissy, and two
22 witnesses testified to that. And he says that he ran
23 north -- look at the diagram, here -- he ran north over
24 towards Charleston, and somewhere over here to the
25 7-Eleven, just a little bit to the east, and that's where

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1 he calls the police. And he said that he saw Glenford, I
2 think after he made his phone call, running away. So, I
3 guess he seen Glenford running either to the north or the
4 east part of the complex.
5 Now, let's compare Lazon's testimony with that
6 of the only other eyewitness in this case. And that is
7 Celeste Palau. And I want to remind you -- I'm holding up
8 for you Defendant's Exhibit C. This is a photograph that
9 shows the view from Celeste Palau's apartment to the
10 building where the killings occurred. This is in the
11 daytime. It's 218 feet. The killing occurs at nighttime.
12 And I'll show it to you on the overhead, here. I mean
13 this is hard to see, real hard to see. But if you look at
14 it, basically, the apartment where the killing occurs is
15 over in the corner 218 feet away. And just before
16 midnight, she says she hears what she thinks are
17 firecrackers. And, so, she and her friend stand up and
18 are looking way over there, and she sees a shooting, and
19 she identifies Glenford as the shooter.
20 But she also says that the shooter runs away to
21 the west. And that would be over that direction, there,
22 to the right on the diagram. So, seeing it very long
23 distance, she sees a shooting, she thinks Glenford does
24 it, but she sees the shooter running off to the right, to
25 the west.

1 She also testified that she saw two people leave
2 the apartment, one of those being Lazon, and I think that
3 he was with Krissy when he leaves; which, of course, is in
4 direct contradiction to what he testifies to.
5 Now, the inconsistencies between her testimony
6 and Lazon's testimony are not unimportant. They're
7 crucial. First of all, it suggests that perhaps Lazon,
8 who was smoking marijuana, may not have that good a grasp
9 on what was going on in the apartment. I mean, the
10 details he's missing are pretty amazing. He's either
11 missing details, or he's lying. I mean, he's claiming
12 that they're drinking, not smoking pot. We know that's
13 false, because the coroner testified the alcohol would be
14 in their bodies. There was no alcohol in their bodies.
15 They had marijuana in their bodies.
16 It's their burden, folks, to have a case that
17 holds together and it proves the killing occurred in a way
18 that creates criminal liability. And it's their burden to
19 prove it beyond a reasonable doubt.
20 This eyewitness testimony is confusing, it's
21 inconsistent, and it suggests we don't know for sure what
22 happened in this case. The implications of the testimony
23 of Celeste Palau with the testimony of Lazon are very
24 interesting. Now, think about this. Let's assume that
25 Celeste did, in fact, see the shooting, but she's wrong on

1 the identity of shooter because of the great distance.
2 Let's also assume that Lazon is correct when he tell us
3 that when he's over here at the 7-Eleven he sees Glenford
4 running that direction. Remember, he could not have seen
5 Glenford running away unless he could see through
6 buildings or around buildings, if Glenford's running off
7 to the west.
8 I submit to you those people sitting in that
9 apartment doing marijuana may not have known precisely who
10 was in that apartment. I submit to you Lazon did not
11 know. I submit to you Celeste Palau is not certain who
12 actually was doing the shooting. And I submit to you that
13 people, as people do, talked after the shooting. It is
14 totally natural that neighbors and friends and family are
15 going to talk together, especially in like something
16 tragic like this. And I submit to you that Lazon, by
17 telling his story, told a story that essentially tagged
18 A.I., or Glenford, with a blank. And I submit to you that
19 Celeste has incorporated that information into her
20 testimony. That, ladies and gentlemen, is probably a lot
21 closer to the truth than anything else in this case.
22 Based on the eyewitness testimony, the State's
23 case doesn't cut the mustard, base on the eyewitness
24 testimony, their case doesn't hold together. Based on the
25 eyewitness testimony, there is absolutely reasonable doubt

1 about who did the killing in this case.
2 Now, when you get together and start discussing
3 this, somebody's going say, "Wait a minute; but the State
4 has so much evidence." And I hope that one of you will
5 say, "Wait a minute; they don't have any other evidence."
6 Think about it. How much physical and scientific evidence
7 connects Glenford Budd in this killing? Absolutely zero.
8 Zero. Is his blood on the scene? No. Is there any blood
9 found on him from the dead people? No. Is there any
10 blood or gunpowder residue ever found in his clothing?
11 Absolutely not. The only scientific evidence in the whole
12 case is the evidence that shows Lazon was lying about the
13 alcohol versus marijuana issue, and then also the fact
14 that we know one gun did the killing.
15 There is not a bit of physical or scientific
16 evidence that backs up the State's case. Taking the
17 eyewitness testimony, the physical evidence and the
18 scientific evidence together, they haven't got it. And I
19 submit to you detectives can come in here and testify like
20 movie stars, and they can sound so confident. But the
21 reason we have juries, ladies and gentlemen, is because
22 you're supposed to look through all this stuff and see
23 what really happened. In this case, their case doesn't
24 cut the mustard.
25 Now, you're going to discuss this. And somebody

1 will say, "Wait a minute. He confessed. He admitted he
2 did it." Well, I ask you: Is that really what you have?
3 Think about this. How many reliable witnesses have walked
4 into this courtroom, sat in that stand, and looked you in
5 the eye and told you that Glenford confessed to them? How
6 many? The answer is not one.
7 Let's start with Winston Budd, Glenford's uncle.
8 At some point in the past he testified that Glenford told
9 him he killed these people. And the Court told you you
10 have a right to consider that testimony. You also have
11 the right to reject that testimony. The fact is, nobody
12 came in here and looked you in the eye, and you can't
13 judge his credibility. You don't know if he's telling the
14 truth. If you can tell the truth from an actor, or
15 whoever, reading his statement, you're a lot better than I
16 am at telling the truth. This is a death penalty trial.
17 You have the right to hold the State to the highest
18 standards imaginable. And, again, that doesn't cut it.
19 His testimony, his evidence, is thin. Thin. Thin. Thin.
20 So, what about Greg Lewis? Greg Lewis, of
21 course, is the man who's in prison. He's a convicted
22 felon, and he came in here and told you that Glenford
23 confessed to him in the jail and then wrote him a letter.
24 I'm from Alabama, a little town in the redneck
25 part of Alabama. We have trailer courts in my little

1 town. In fact, I have family members live in trailer
2 courts, and I've lived in a trailer before. So, I think I
3 can say this without offending anybody. There's an old
4 saying in Alabama that, "If you drag a hundred dollar bill
5 through a trailer court, you'll always come up with
6 something." Well, I'm going to tell you another truth,
7 folks: You drag the promise of parole through a prison,
8 and you'll always come up with something.
9 No one in this case is less reliable than Greg
10 Lewis. Let me repeat that. No one in this case is less
11 reliable than Greg Lewis. This is not somebody who didn't
12 perceive things correctly. This is not somebody who
13 smoked marijuana and doesn't know exactly what happened.
14 This is not somebody who was in a long distance away and
15 couldn't see exactly what happened. This is somebody who
16 sold his soul for the promise of parole. He should not be
17 trusted. He is serving 72 months in prison. He has a
18 wife or a girlfriend. Read the letter; it's in evidence,
19 Defense Exhibit A. He discusses his wife or girlfriend.
20 He has three kids.
21 He has strong motivation for getting out of
22 prison. He told you, "I don't like prison. I want to get
23 out." He wants out and there's a way to get out. And the
24 way to freedom, the way out of that prison is called
25 parole. And he told you he has a parole board hearing

1 coming up in March of 2006. Now, let me tell you
2 something.
3 I'm sorry, State's Exhibit 50, please.
4 Into evidence we have the letter from a
5 prosecutor in this case, not one of these two, one of
6 their predecessors. This is a letter from the District
7 Attorney's Office to the Parole Board, and it's a letter
8 basically telling the parole board what service Greg Lewis
9 has provided.
10 Now, I submit to you this is not a letter. That
11 is gold. That is pure 100 percent gold. How many people
12 do you think go to the parole board with that kind of
13 letter? With this letter, parole day is party day for
14 Mr. Lewis. And, by the way, there were questions raised
15 by the prosecutor who suggested, perhaps, he didn't get
16 any consideration for this from the Court or something
17 like that. This has nothing to do with the court. This
18 is about the parole board. This man is serving six years
19 in prison. He want out; the parole board can let him out.
20 And that letter, my friends, that's the way you get out.
21 Now, he has sold his soul for the promise of
22 parole. And, now, let's talk about just how easy it was
23 for him to do this. He talked about conversations he had
24 with Glenford in jail. And we're not going to play games
25 here. They were in jail together. They had every chance

1 to talk about it. They had chances to talk not only about
2 what Glenford said, but what the State's alleging. He
3 could have learned the facts that the State's claimed
4 happening just from talking to Glenford.
5 Of course, he also had the chance to read the
6 paper and watch the news. So, he had a chance to learn,
7 independently, what the facts of this case were. And, so,
8 he claims that Glenford told him the story, and basically
9 admitted liability. Well, that's one thing.
10 The other thing, of course, is State's Exhibit
11 49C, the rap song, which is a devastating piece of
12 evidence. I mean, it's a horrible piece of evidence.
13 Well, look at how easy it was to fabricate. First of all,
14 Greg Lewis told you he had possession of this. You've
15 never heard any evidence that Glenford ever had possession
16 of this. Greg Lewis said, "My fingerprints would be on
17 that letter." He also told you he had an interest in rap
18 music. He told you he was in to rapping at the jail, and
19 there were group of them that were rapping. So, the man
20 clearly had an interest in this type of dialogue or music,
21 whatever you want to call it. He could have written this,
22 or somebody else could have written it.
23 The stationery this is on is precisely the same
24 stationery that Defense Exhibit A is on, which is Greg
25 Lewis's letter from Glenford Budd. There's no difference

1 at all. So, if he decides, "Hey, I'm going to make this
2 up," well, that's how you do it. You use the stationery
3 you have, and it just so happens the stationary matches.
4 The rap song has language. And you can read it.
5 You'll have this back with you. It talks about the danger
6 of snitches. Well, if you take his letter to Glenford, he
7 talks also about the danger of snitches. Who would know
8 more about the danger of snitches than Greg Lewis?
9 So, in these circumstances, what could have been
10 done for us to find out the truth about this so-called rap
11 song? Well, there's a number of things that could have
12 been done. First of all, it would be nice to have a
13 fingerprint analysis done. We know Greg Lewis's
14 fingerprints are on this. Were Glenford's fingerprints on
15 there? If he ever handled the rap song, they should have
16 been. They didn't do a fingerprint analysis. They didn't
17 even try to do one.
18 Okay. They could have done a handwriting
19 analysis. And you might say to yourself, "Wait a minute.
20 This is a highly stylized document. This is not normal
21 handwriting." And that's true. But, maybe, if you did a
22 handwriting analysis, you might find something in either
23 Glenford's handwriting or Greg Lewis's that matches. Let
24 me give you an example. When you go back there, look at
25 the Gs in Greg Lewis's letter, and look at the Gs in this

1 rap song. A "G" normally has a curl at the bottom. Not
2 in Greg Lewis's letter, and not in the rap song. And he
3 also has a particularly interesting diamond sort of top,
4 which occurs in both documents. I think if the State had
5 done a writing analysis, we would know a lot more about
6 the origins of this rap song than the State wants to know.
7 Is there anything else the State could have
8 done? Absolutely. Why not just get the jail to search
9 Glenford's cell several times in the last two years and
10 just try to find one document in his possession where the
11 same stylized handwriting that exists in this? That would
12 be very helpful. Similarly, it would be very helpful to
13 do the exact same thing for Greg Lewis. Maybe Greg Lewis
14 had this kind of stylized handwriting in his cell. That
15 would be incredibly helpful. I asked Detective Vaccaro
16 about this. He wasn't interested.
17 This is such an important case. The stakes
18 can't be higher than in this case. And, yet, there are a
19 lot of things just not done here. A lot of things not
20 finished. And the stakes are so high. You have the right
21 and the duty to expect the highest standards in this type
22 of case, absolutely the highest standards imaginable.
23 We have the right to comment not only here on
24 what the State has not proven or has proven, but on things
25 that didn't go right. Mr. Kane commented in his opening

1 statement that the State would present the testimony of
2 Tracey Richards, who would testify she picked Glenford up,
3 took him to her home. He spent the night there, and the
4 next morning before he leaves he says, "I had a dream."
5 And the dream that he supposedly relates is, "I killed
6 three people over some marijuana." And I'll tell you
7 something -- and you all know this -- this person never
8 testified. Never testified at all. But if you listen to
9 Detective Vaccaro's testimony closely, you will see that
10 there were motivations for any such person to concoct that
11 story, because he said, "Look if a person transports a
12 fugitive, harbors a fugitive, feeds a fugitive, under
13 certain circumstances that could be a crime." Think about
14 it. If you're in that boat and you know that you're
15 facing that kind of liability, how do you get out of it?
16 You become State's evidence. And listen to how general
17 that statement was. "I had a dream. Three people killed
18 over marijuana." That could have come from anywhere, not
19 necessarily from Glenford Budd.
20 I also want to comment briefly on the
21 nonexistent testimony of our other eyewitness. There
22 weren't -- there was not one person at Celeste Palau's
23 apartment; there were two. And she was standing right
24 beside Celeste Palau. Everything that Celeste Palau saw
25 she would have seen. Where's her testimony? Nonexistent.

1 Death penalty case, the highest stakes imaginable,
2 nonexistent. Oh, well.
3 Where are we? We know Lazon did not check the
4 two other rooms. He has no idea if anyone else was in
5 that house. We know Lazon lied about the marijuana versus
6 alcohol. The fact is they were all getting high in there
7 and it's entirely possible their perceptions were not that
8 great. We know that Lazon told us less than the truth
9 about leaving with Krissy. Why would he have forgotten
10 such an important detail? Why did he omit this. We know
11 Celeste saw somebody in a long distance away who did the
12 shooting. It was almost midnight. It was dark outside;
13 at that distance it's very possible that she did see the
14 shooting, but did not see the precise identity of who did
15 the shooting. And we know Celeste Palau said the shooter
16 headed west. She had no motive to lie about that. We
17 know that Lazon said Glenford Budd headed either north or
18 east. He wouldn't lie about that if he knew it. We know
19 the State has no physical evidence, no scientific evidence
20 of any kind linking Glenford to the shooting. We know
21 Greg Lewis is in prison. We know he wants to leave
22 prison. We know that he knows how to get out of prison,
23 and it's call the parole board. And, so, we know that he
24 has sold his soul for the promise of parole, and maybe
25 he'll be getting out in March 2006. We know the State

1 presented testimony from Winston Budd, but Winston Budd
2 did not look you in the eye, and it's almost impossible to
3 really figure out whether he's telling you the truth. We
4 know the State did not present the testimony of Tracey
5 Richards; but if they had, she had a motivation to concoct
6 this little story she told the cops.
7 Under these circumstances, ladies and gentlemen,
8 this is not a close case. This is not beyond a reasonable
9 doubt case. This is not a case that holds together. This
10 is not a case where you can say you know what happened.
11 Not at all. This case, ladies and gentlemen is riddled
12 with doubt. It's riddled with things not done. It's
13 riddled with investigation not complete. This, ladies and
14 gentlemen, is a not guilty case. They didn't prove their
15 case. Make the presumption of innocence mean something.
16 Make the standard of prove mean something.
17 My client came in this room, this courtroom, as
18 an innocent man. He's still an innocent man. And please
19 find him not guilty. Thank you.
20 THE COURT: Thank you, Mr. Brooks.
21 Any rebuttal, Mr. Kane?
22 MR. KANE: Thank you.
23 REBUTTAL ARGUMENT BY THE STATE
24 MR. KANE: Ladies and gentlemen, I'm talking to
25 you last, and I'll try to be brief. My purpose up here

1 isn't to repeat the arguments that you've already listened
2 to. As the Court told you, the State gets two chances to
3 argue, first and last; and that's because we bear the
4 burden of proof, and that burden never shifts to a
5 defendant throughout the trial. Because of that heavy
6 burden, we get the first chance and the last chance to
7 talk to you.
8 And I want to talk to you about four points, and
9 then I'm going to sit down and let you deliberate.
10 Point one, Tracey Richards. In listening to
11 counsel, you may have gotten a misapprehension, and I'm
12 sure that was not his intention. You may have gotten the
13 misapprehension that the defense, somehow, has to explain
14 away what Tracey Richards might have said and why she
15 might have said it. Let me make something perfectly
16 clear. Tracey Richards did not testify. My remarks in
17 opening statement about what I expected her to say were
18 not evidence. It turned out that Tracey Richards was
19 unavailable and I couldn't call her at trial. So, you
20 must totally disregard my statement in opening statement.
21 It's not a question of did the defendant say to Tracey
22 Richards, "I had a dream about killing three guys," and
23 did she make it up because she was afraid of being charged
24 as an accessory. That's not an issue.
25 There is no evidence before you that the

1 defendant ever said to anyone, "I had a dream about
2 killing three people," and you must absolutely disregard
3 that. It didn't happen, it's not before you, it's not
4 evidence.
5 Point two, it is part of a defense attorney's
6 job to attack -- and I don't mean in any wrong way -- but
7 to attack the State's witnesses, to suggest reasons why
8 the State's witnesses are either mistaken, deliberately
9 misstating evidence, or for some other reason should not
10 be believed. And there were two of our witnesses who came
11 under particular attack, and they were Lazon Jones and
12 Greg Lewis.
13 Don't believe Lazon Jones, says the defense, for
14 a couple of reasons. First, because he didn't mention
15 Krissy running down the stairs at the same time that he
16 was running down the stairs. Well, let me apologize on
17 Lazon's behalf. His 14-year-old brother lies dead in the
18 bedroom of an apartment at the top of the stairs. His to
19 friends, against his advice, have discharged back into the
20 line of fire, and they're probably being killed while he's
21 running. I'm sorry he didn't notice who else was on his
22 stairs. The Mormon Tabernacle Choir could have been
23 running down those stairs behind him, and I'll be he
24 couldn't have identified a single face. Because what he
25 was concentrating on -- and justifiably -- was being the

1 only person to escape Apartment 2068 alive, except for the
2 killer, Mr. Budd.
3 Don't believe Lazon Jones, says the defendant,
4 because he says he saw the defendant fleeing the
5 apartment. And since that's in the wrong direction, he's
6 got to be wrong or looking through buildings. What Lazon
7 Jones said is after he ran down the street to the 7-Eleven
8 and after he made the 911 call, which you listened to and
9 which was over three minutes long, and while he's waiting
10 for police personnel and ambulance personnel to show up,
11 he believes he sees the defendant, who is now outside the
12 apartment complex, running across Charleston Boulevard.
13 There's nothing inconsistent between that observation and
14 the defendant leaving the apartment in a westerly
15 direction. After he gets out of the apartment complex, he
16 crosses Charleston Boulevard, he's seen by Lazon; a
17 reliable observation and no reason for you not to believe
18 it.
19 And, finally, he said, "Don't believe him
20 because the coroner told you that you should expect to
21 find blood alcohol levels in these three dead teenagers
22 and you didn't; and, so, he's got to be wrong about
23 everything. Well, what the coroner said is, "If at the
24 time of the death of these people they had a substantial
25 blood alcohol level, you'd still expect it to be there a

1 couple of days later." What Lazon's testimony was is that
2 over period of hours, each one of them drank, at the most,
3 a couple of cans of beer. You know, from your own
4 personal experience -- and you've got a Jury Instruction
5 that says you don't leave your common sense out in the
6 parking lot when you're reporting for jury duty -- that
7 when you drink you feel the effects of alcohol, that
8 gradually increase, that gradually wear off.
9 So, yeah, if all three of the victims had
10 chugged two or there cans of beer minutes before they
11 died, then you might expect that all of that stuff would
12 still be in their system days later. But that's not the
13 way you drink, especially not when you're drinking
14 socially. You'll drink a can of beer or two over a couple
15 of hours, your blood alcohol goes up, the effects wear
16 off, your blood alcohol level goes down. And, so, there's
17 nothing surprising about the coroner not finding any
18 appreciable blood alcohol levels in the dead bodies of the
19 three teenagers a couple of days later, and there's no
20 reason, there, for you not to believe Lazon Jones.
21 Now, the defense argues you've got to look at a
22 witness like Greg Lewis, and Greg Lewis, in particular,
23 with skepticism. That's one thing I'm going agree with
24 him on. You'd be fools not to. Does Greg Lewis have an
25 ax to grind? Absolutely. Is he hoping that he'll get

1 some benefit out of the testimony that he's given?
2 Absolutely. And, so, should you test what he says and
3 should you view what he says with skepticism until you're
4 satisfied that there's independent reasons to believe him?
5 Of course.
6 So, let's take a look at the two things he
7 testified about. He testified that a conversation that he
8 had with the defendant in the jail, quite some time after
9 the murders; and then he testified about a letter that he
10 received from the defendant and the rap song that was
11 contained in the letter.
12 When he told you about the conversation he had
13 with the defendant in the jail, if he came in here and all
14 Greg Lewis said to you is, "Yeah, we were in jail together
15 and Budd says to me, 'I killed three guys,'" would I get
16 up here and say to you, "You've got to believe him, boy,
17 That's credible stuff. That's really good. You should
18 believe him"? Of course not. But that's not what he
19 said.
20 Think back to what Greg Lewis said the defendant
21 told him in jail. The defendant told him he killed three
22 boys because he thought they stole his marijuana. He told
23 them that he tried to find out which one of them stole the
24 marijuana so he could get it back. He told him he tried
25 to find out by hanging around with them all day and

1 playing basketball with them. Now, how does Greg Lewis, a
2 year after the event know those things? Do you he suppose
3 the papers reported that the three of them were playing
4 basketball together?
5 The only way that Greg Lewis knew the statements
6 that Glenford Budd made to him in jail and that Greg Lewis
7 told you about is because Mr. Budd actually made those
8 statements to Greg Lewis. He was telling you about
9 details of what happened that day that could only be known
10 to someone who was there. And, so, you didn't believe
11 Greg Lewis because you think he's a nice guy or because he
12 wouldn't lie to you; you believe him because he's
13 corroborated by the independent evidence of what you know
14 happened that day, and that fact that Greg Lewis had no
15 other way of knowing those things, unless Mr. Budd told
16 him.
17 And then you've got the rap song. And you can
18 usually tell the strength of a piece of prosecution
19 evidence by the vociferousness of the attack that's
20 launched against it by the defense, and this is no
21 exception. You shouldn't believe that Mr. Budd wrote the
22 letter because we didn't fingerprint it, we didn't subject
23 it to handwriting, and because we didn't search his cell.
24 You know, every time that I think I've seen everything in
25 this business, I see something that I haven't seen before;

1 and I have now seen the spectacle of a defense lawyer
2 criticising me in court because I didn't go toss his
3 client's cell and search his personal belongings. Well,
4 we didn't do it.
5 Would it have helped to fingerprint? Well, the
6 defense speculates, with absolutely no scientific or
7 evidentiary basis that if I touched this piece of paper
8 and you fingerprint it some time later, my prints are
9 going to be on there. Where's the evidence before you
10 that tells you that happens. There's stuff that we touch
11 everyday that we may or may fingerprint that even holds
12 fingerprints that you can recover later. There's no
13 reason to believe that the police should have
14 fingerprinted this.
15 Handwriting analysis. This rap song itself
16 states -- Exhibit 49C -- contains a particular written
17 note that says it is disguised handwriting. It says, "So
18 sorry. This is how I write, so people can't read over my
19 shoulder. This shit is for your eyes only." So, the
20 person writing this is saying, "I'm disguising my
21 handwriting." What good would a handwriting analysis do
22 in identifying this guy's handwriting? How are we going
23 to make Mr. Budd sit down at a table and say, "We want to
24 prove you wrote this damaging letter, so we want you to
25 disguise your handwriting, just the way you did when you

1 wrote this, so we can compare it and put you in prison"?
2 Obviously, that couldn't be done, and that's why
3 handwriting wasn't done.
4 So, all of the things that defense counsel said
5 should have been done to establish the authenticity of
6 this letter, were done; and for good reasons. And there's
7 no evidence that they would have proven anything.
8 Now, on the other hand, what is there about this
9 letter, 49B and the rap song, 49C, that indicates the
10 defendant wrote it? And here you've got what we call in
11 the trade, self-verifying detail. And that's something
12 within the document itself that makes it appear to be
13 genuine.
14 And you heard a couple of stipulations or taking
15 of judicial notice matters in the course of the trial that
16 may have seemed to you real mysterious at the time. We
17 stipulated that the defendant and Greg Lewis weren't back
18 in the same unit in the jail back in October of 2003. We
19 stipulated that the defendant, at some point, moved to a
20 single cell; that being cell number 18. And, finally, we
21 stipulated that back at the time that this letter was
22 written, the defendant's trial date was set for November
23 of 2004. And you may have been sitting there scratching
24 your head, thinking, "Well, why are we worried about
25 things like that?" The reason is, they're all things that

1 are referred to in this letter, and they're things only
2 the defendant would be in a position to know.
3 It is true that the defendant and Greg Lewis
4 were in a common unit on the ninth floor of the jail, back
5 had the admissions were made to Greg Lewis. And that's
6 referred to here in the letter, "Back when we were on the
7 ninth floor together." It is true that the defendant, at
8 the time he wrote this letter was in cell number 18 on the
9 ninth floor. And he said in here, "I moved into 18, which
10 is a single cell." And it's that at the time this letter
11 was written, the defendant's trial date was set and had
12 just been reset for December of 2004. And the defendant
13 says in the letter, "As far as my trial date, it's just
14 been moved back to November." So, this is a letter that
15 you don't need handwriting and fingerprints who wrote it,
16 the contents tell you who wrote it.
17 The defendant, in writing this, he knows what
18 cell he's in. He know when his trial date is set, and has
19 just been reset. He knows what unit he was in six months
20 or so before, when he had some conversation with Greg
21 Lewis, and there's nobody else that knows all of that.
22 Greg Lewis knows that they were in the same unit six
23 months; before but there's no evidence that he knows the
24 cell number of the defendant when this letter's written.
25 There's no evidence that he knows or had any way to know

1 the trial date that the defendant at the time this letter
2 was written. The letter itself and the facts contained in
3 it tell you that no one could have written it but the
4 defendant.
5 And, again, you want to know who wrote the
6 letter, and if it was the same person who wrote the rap
7 song. Well, I've suggested to you the reasons why we know
8 the defendant wrote the letter, 49B. And at the top of
9 the letter he includes a P.S. And you'll have this back
10 with you in the jury room, so don't worry if you can't
11 read it on the scene.
12 But what it says is: Third P.S. "I got killer
13 in me, still." And then you turn to the rap song, and
14 what's the title? "Killer In Me." What do you think?
15 Did the same person write this and this?
16 Don't believe Greg Lewis, because you think he's
17 a nice guy or a public spirited citizen or is acting out
18 of altruistic motives. Believe him to the extent that
19 he's corroborated and backed up by other evidence. And
20 if, based on that evidence, you find he's believable, then
21 you use that as part of the evidence that you consider.
22 Third of the four points I want to cover with
23 you. A couple of times in the Instructions, it's
24 mentioned that if you're in a situation of doubt, you need
25 to give the defendant the benefit of that doubt. If you

1 have doubt as to whether it's first or second degree, if
2 you have a reasonable doubt as to whether or not he's been
3 proven guilty beyond a reasonable doubt, you must give him
4 the benefit of the doubt. And that's a fundamental tenant
5 of our justice system. If you're in doubt about
6 something, the defendant's entitled to the benefit of the
7 doubt.
8 So, when you get back in the jury room, I'm
9 going to make a request of you, and you can do this or not
10 on do, because I don't have any right to tell you how to
11 conduct your deliberations. But I'm going to ask you to
12 perform a mental exercise, where you give the defendant
13 the benefit of the very doubt that the defense lawyers are
14 asking you to give. The defenses lawyers say that Greg
15 Lewis is not believable. Fine. When you get back to the
16 jury room, assume that Greg Lewis doesn't exist. Assume
17 the defendant never made any statements to Greg Lewis.
18 Assume the defendant never wrote the rap song.
19 And then make a second assumption. The defense
20 wants you to assume that Celeste Palau was too far away to
21 make a positive identification of the person she saw
22 shooting on the balcony. I'll give you that one, too.
23 When you get back there, assume that Celeste Palau is
24 lying about her eyesight, and she really couldn't see the
25 guy clearly and she couldn't make a positive

1 identification. And put those two things aside -- Greg
2 Lewis and Celeste Palau's eyesight. Resolve them in favor
3 of the defendant.
4 And then look at what's left, and ask yourself,
5 "Isn't that without Greg Lewis and without Celeste Palau's
6 positive identification, enough evidence to establish
7 guilt beyond a reasonable doubt. And I'm going to suggest
8 to you why it is. And why it is, is because you don't
9 have to consider any witness's testimony, and you
10 shouldn't consider any witness's testimony, in isolation.
11 You consider the witnesses' testimony as it relates to the
12 testimony of every other witness. And you add those
13 testimonies and those observations together, to the extent
14 that they strengthen one another, to support inferences.
15 And an inference is a conclusion you draw from a
16 chain of evidence. It's like adding two plus two and
17 getting the inevitable answer for it. And two plus two
18 always equals four, whether a defendant wants it to or
19 not. And three plus two always equals five. And the
20 three plus two I want to talk to you about are the three
21 non-police officer witnesses who were present when these
22 shootings occurred and the two police officer witnesses.
23 And I'm going to suggest to you that what the
24 evidence shows is that when you consider the testimony of
25 those five witnesses together, it establishes the

1 defendant's guilt beyond a reasonable doubt, without Greg
2 Lewis and without a positive identification of Celeste:
3 Palau.
4 And here's what I mean: Lazon Jones testified
5 that he's present in apartment 2068, and that he hears a
6 couple of shots, runs out the door. His two friends run
7 back in the door, and he run down the stairs.
8 At the same time, Celeste Palau, sitting over
9 here on her balcony, looks over and sees two people
10 running down the stairs. Now, we know at this point that
11 those two people are Lazon Jones and Krissy Smith, because
12 you heard from both of them; and you know that they're the
13 two people that were running down the stairs. And Celeste
14 Palau sees them both. And she's still looking at the
15 balcony.
16 And now what she sees is a person come out on
17 the balcony, fire a shot down, fire a shot a little
18 further up, and then take a step or forward, and fire a
19 third shot. And we know, from looking at all the rest of
20 the evidence, that what she was witnessing was the
21 execution of Jason Moore, who wound up dead in a pool of
22 blood in the corner of the patio.
23 But the point is, she is watching the shooter,
24 whoever the shooter is. And, remember, for the purpose of
25 this little mental exercise, I'm asking you to assume she

1 can't identify him, she's too far away, she can't see him.
2 But she sees the person doing the shooting. And she
3 watches that person run down the stairs, run down this
4 street, and turn this way. And while she's watching him,
5 the police car is rounding the corner. And they
6 literally, according to her testimony, she they almost hit
7 each other. The police car pulls up here and stops, and
8 the shooter, whoever is he, continues down this street.
9 Now, the important thing to remember about the
10 testimony of the two police officers, is they testified
11 that as they wound this corner they notice some people
12 kind of milling around. And now we know who those people
13 were; they were the people downstairs that Krissy Smith
14 banged on their door and said, "Hey, there's shooting
15 going on."
16 So, the police see this group, and now the
17 police officers, as well as Celeste Palau are looking
18 right at apartment 2068, to the extent that they even see
19 one of these guys downstairs go halfway up the stairs, and
20 then he peeks over and see's Jason Moore's body and starts
21 back down. The point is, the police officer's fixed
22 observation on 2068, make it impossible for anyone else to
23 have exited that apartment. Celeste Palau's looking,
24 they're looking, there's no way that anybody but that
25 shooter, the person who goes down the street here, exited

1 the apartment. There's just no physical way for anyone
2 else to have done it.
3 Now, how does that establish the defendant's
4 guilt beyond a reasonable doubt? Well, here's how. What
5 the detectives do after they make these observations, is
6 they walk up the stairs and they slowly and painstakingly
7 and with the assistance of other officers, seal that
8 apartment and inspect every square inch of it, including
9 those two locked bedrooms that the defense is so found of,
10 and they find out there's nobody else there.
11 So, when you put the testimony of these five
12 witnesses together, what you know is there were five
13 people in and around this apartment. There were the three
14 dead people, there was Lazon Jones, and there was Krissy
15 Smith, and then there was the person who shot them. We
16 know where the three dead people are, because they stay in
17 apartment 2068. We know where Lazon and Krissy went,
18 because Lazon goes to the 7-Eleven and Krissy goes right
19 downstairs and stays there.
20 Now, we know where the shooter went, because he
21 went that way. And what does that got to do with the
22 defendant? Well, the defendant told the police he was
23 there. Who else was that person that Celeste Palau saw
24 leave? We know from five separate witnesses -- not just
25 from Celeste Palau with her supposedly questionable

1 eyesight -- we know from five people that the only person
2 who left that apartment and is unaccounted for is the
3 shooter who goes down that street. And we know from the
4 defendant's own admission that he was there and left the
5 apartment. And that, from his very own mouth, makes him
6 the shooter.
7 And the final thing I want to talk to you about
8 is this idea of premeditation and deliberation and whether
9 or not this is first degree murder. Lawyers make anything
10 complicated, and premeditation and deliberation amount to
11 knowingly making up your mind. And yet, by the time a
12 lawyer gets through describing them, it sounds like you
13 got to set down and make up a list, like your Christmas
14 list. What are the reasons why I should kill Jason Moore?
15 What are the reasons why I shouldn't kill Jason Moore.
16 And do the reasons why I should kill him outweigh the
17 reasons why I shouldn't. And then if you make that
18 decision, that's premeditation and deliberation.
19 Of course that's what it is. But counsel says,
20 "Well premeditation and deliberation and trying to figure
21 out what's going on in the defendant's mind, that's
22 theoretical nonsense." Is it really? I'm going to
23 suggest to you that every one of you goes through a
24 process of deliberation every single day, and that you
25 went through it today. And you did so in a situation

1 where your life was at stake, and it took you a couple
2 seconds. And you did it when you crossed the street at a
3 traffic light.
4 Because think of what you do. You want to cross
5 the street. You stop at the corner. You check to see if
6 the light is for you or against you. Even in the light's
7 for you -- unless you're from somewhere other than New
8 York City, like I am -- you look left and right, just to
9 make sure there isn't anything approaching the
10 intersection who's disregarding the light. And if there
11 are other cars approaching, we gauge their speed and
12 direction, and you decide when it's safe for you to step
13 of the curb and cross the street.
14 That's deliberation. You have weighed the
15 options, you considered some inputs, and you made a
16 decision. And if you're wrong, you're dead. You're going
17 to be hit by a car and you're going to be injured or maybe
18 die. Does it take you five minutes? Ten minutes? Thirty
19 minutes to do that? It takes seconds. That's how long it
20 take to consider a course of action, a potentially fatal
21 course of action, to consider the consequences, and to
22 decide what you're going to do, and do it. And that's how
23 long it takes to premeditate and deliberate.
24 And, finally, counsel says that what went on in
25 the apartment doesn't shed any light about that. He says

1 there was no thinking at all. The defendant wasn't
2 thinking throughout this entire incident. Oh, really? It
3 is about two minutes to midnight on the 26th. I'm the
4 defendant. I'm on the stairs outside apartment 2068. I
5 know somebody stole some dope of mine, or I believe they
6 did. I spent the afternoon with a couple of people that I
7 think did it, and I'm trying to warranted some information
8 out of them, and I haven't been able to. And, so, I've
9 gone and armed myself, and I'm back at the apartment where
10 the thieves are. Am I thinking yet?
11 I'm walking up the stairs to the apartment. I'm
12 at the door. Am I thinking yet?
13 I walk through the door of the apartment. I say
14 I have to use the bathroom, and I make a left turn into a
15 bedroom, which just coincidentally holds the youngest,
16 smallest most vulnerable occupant of the apartment. Am I
17 thinking yet?
18 I go into the room and I close the door behind,
19 and I take out my gun. And I fire a shot either through
20 the window or into the neck of this 14-year-old. Am I
21 thinking yet?
22 I fire two more shots; one through the window
23 and another into his neck. And I say, "Where's my stuff?"
24 Am I thinking yet?
25 I walk out of the room and there are two

1 19-year-olds in the living room. I follow one of them
2 down the hall. I shoot him seven times. Slugs are
3 ripping into his body. Some of them are passing through a
4 grocery bag with toilet paper and paper towels, that he's
5 either hiding behind or maybe clutching to his chest to
6 try and save his life. Am I thinking yet?
7 After he's dead, I turn and I go to the door of
8 the apartment. Jason Moore crawls across the threshold
9 for his life. I stand over him. I fire a shot into his
10 back. Am I thinking yet?
11 He crawls a few feet. I shoot him again. Am I
12 thinking yet?
13 He crawls to the corner of the patio and I
14 execute him. Am I thinking yet?
15 First-degree, premeditated, deliberate murder.
16 Thank you.
17 THE COURT: Thank you, Mr. Kane.
18 Ladies and gentlemen, this is the time when you
19 will finally leave the courtroom without the admonishment;
20 because, indeed, this is the time when you will meet
21 together and you will go to your deliberation room and you
22 will discuss the case, you will discuss the evidence, and
23 you will ultimately reach a verdict on a verdict form that
24 has been provided for your convenience.
25 At this point, one of you is an alternate, and

1 you will be kept separate from the rest off the jurors
2 during their deliberation. The fact that one of you has
3 been chosen as an alternate does not mean that that one
4 person is any less important than any of the others. I
5 have had more trials than I care to count, where an
6 alternate, even during deliberation, was called into
7 service. So, the fact that an alternate remains a part of
8 this process is very, very important.
9 I have also had a number of trials where an
10 alternate or two alternates have been kept separate, and
11 the jury has made it through their entire deliberation
12 process without the alternate ever participating in the
13 deliberation process. Either way, all of your service to
14 this process, to this trial, to the State, to the
15 defendant, all of your service is equally important. The
16 system wouldn't work unless we had people like you to
17 serve.
18 As we know, we lost one juror already during
19 this process. So, if we didn't have extras, then the
20 entire process would be tainted or certainly very
21 negatively affected. So, while we identify one of you
22 among you who are the alternate, please don't feel as if
23 your time has not been important, because it has been.
24 When you go to deliberate, Mr. Bailiff will take
25 a special oath. And, in fact, he will be sworn to keep

1 you separate from people who might influence your
2 deliberation. And he can't talk to you himself. The only
3 thing that he can do is to allow you an opportunity to use
4 the restroom, if necessary, and/or to pass a note through
5 him to me for one of the subjects, such as a readback or a
6 question that you might have.
7 When you finally reach your verdict, you will
8 tell Mr. Bailiff when you have reached a verdict, and when
9 you are ready to return to the courtroom with your
10 verdict.
11 With that in mind, Mr. Bailiff, would you raise
12 your right hand, sir.
13 (The clerk, administers the oath to the
14 bailiff.)
15 THE COURT: Ms. Clerk, would you identify the
16 alternate.
17 THE CLERK: It will be badge number -- or,
18 actually, seat number 13, Ruth Hardy.
19 THE COURT: And would you swear Mr. Bailiff to
20 take appropriate care and custody of our alternate.
21 In fact, we're going to have you swear my clerk,
22 as well.
23 Very well, we'll swear my law clerk, if you
24 would, please.
25 (The clerk administers the oath to Judge

1 Saitta's law clerk.)

2 THE COURT: Ladies and gentlemen, you're going

3 to go to the deliberation room. You're going to take your

4 belongings, your notes, your notebooks with you. We will

5 be creating copies of the jury instructions for you. And

6 it is at this time that I thank you for your service. The

7 hard part of your job is upcoming.

8 Mr. Bailiff.

9 (The jury exits the courtroom at 3:55 p.m., for

10 the deliberation process.)

11 THE COURT: Miss Hardy, would you go with my law

12 clerk, please?

13 THE ALTERNATE JUROR: Sure. Even though it is

14 shortly before 4:00 o'clock, I'm going to have the jury

15 begin the deliberations this afternoon. There's still

16 adequate time for them to do so. I suspect that we'll

17 have 15 or 20 minutes -- you know, taking a break or

18 getting themselves settled in. But I know that Cliff has

19 already collected from you all phone numbers where we can

20 reach you. If you have not heard from us by 6:00 o'clock

21 you can assume that we have excused the jury and they will

22 be back tomorrow to consider their deliberations.

23 If we -- and what happens is, at about ten

24 minutes before 6:00, Cliff will go in and he will tell

25 them precisely this: "The Judge is going to dismiss you

1 at 6:00 o'clock." Now what's happened in the past, if
2 they're close and they say, "No, we just need 15 more
3 minutes," we keep them. And we'll call you so you know
4 we're going to go past the 6:00 o'clock. But that's the
5 only thing -- the only communications we will have with
6 them.
7 Thank you very much.
8 MS. PANDUKHT: Could you remind us again about
9 the time you said for tomorrow or the next day? Is it
10 10:30?
11 THE COURT: I would 10:30 for tomorrow, yes.
12 And we'll go as late as we need to tomorrow. Well --
13 Mr. O'Brien, your witnesses will be here
14 tomorrow, I presume?
15 MR. O'BRIEN: Yes.
16 THE COURT: Okay. And if we need to -- well, if
17 we need two more witnesses, that is -- but this matter
18 will then be placed back on calendar, if the jury is still
19 in deliberation, for Thursday morning at -- we're probably
20 going to bring them back earlier, at 8:00 o'clock.
21 MR. O'BRIEN: Tomorrow you're going to bring
22 them in at 8:00.
23 THE COURT: They'll be here at 8:00 or 8:30.
24 MS. PANDUKHT: But on Thursday, it would also be
25 10:30?

1 THE COURT: No. Thursday will be 8:00 or 8:30.
2 Mr. Kane.
3 MR. KANE: If we're present evidence.
4 THE COURT: Correct.
5 MS. PANDUKHT: So, Thursday will be eight or
6 8:30?
7 THE COURT: Yes.
8 MS. PANDUKHT: 10:30 only tomorrow.
9 THE COURT: Correct.
10 MS. PANDUKHT: Thank you.
11 THE COURT: Thank you.
12 (Recess taken at 4:10 p.m. for jury
13 deliberation. Court resumes at 6:48 p.m., and the jury
14 enters the courtroom.)
15 THE COURT: Please be seated. Welcome back.
16 Ladies and gentlemen, it is my understanding
17 that you have reached a verdict; is that correct?
18 THE JURORS: Yes.
19 THE COURT: Who's your foreperson?
20 THE CLERK: Number 12 is the foreperson.
21 THE COURT: Would you please hand your verdict
22 to my bailiff.
23 Ms. Clerk, would you read the verdict.
24 Mr. Budd, would you stand.
25 THE CLERK: The State of Nevada, Plaintiff,

1 versus Glenford Anthony Budd, Defendant, Case Number
2 C11 -- C193182, Department Number 18. Verdict: "We, the
3 jury in the above entitled case, find the Defendant,
4 Glenford Anthony Budd, as follows:
5 "Count 1 -- Murder With Use Of A Deadly Weapon
6 (Victim - Dajon Jones), Guilty of First Degree Murder With
7 Use Of A Deadly Weapon.
8 "Count 2 -- Murder With Use Of A Deadly Weapon
9 (Victim - Derrick Jones), Guilty of First Degree Murder
10 With Use Of A Deadly Weapon.
11 "Count 3 -- Murder With Use Of A Deadly Weapon
12 (Victim - Jason Moore), Guilty of First Degree Murder With
13 Use Of A Deadly Weapon.
14 "Dated this 13th day of December of 2005, signed
15 by the Foreperson Rachel Goldner."
16 THE COURT: Ladies and gentlemen of the jury, is
17 this your verdict as read? So say you one, so say you
18 all.
19 THE JURORS: Yes.
20 THE COURT: Would either side ask that the
21 jurors be polled?
22 MR. BROOKS: The defense does, Your Honor.
23 THE COURT: Very well.
24 THE CLERK: Juror Number 1, Warren Ikei, is this
25 your verdict as read?

JUROR NUMBER ONE: Yes.

THE CLERK: Juror Number 2, Robert Garbaccio, is this your verdict as read?

JUROR NUMBER TWO: Yes.

THE CLERK: Juror Number 3, Idona Huntt, is this your verdict as read?

JUROR NUMBER THREE: Yes.

THE CLERK: Juror Number 4, Sharon Kirby, is this your verdict as read?

JUROR NUMBER FOUR: Yes.

THE CLERK: Juror Number 5, Beverly Daisley, is this your verdict as read?

JUROR NUMBER FIVE: Yes.

THE CLERK: Juror Number 6, Wendy Schneider, is this your verdict as read?

JUROR NUMBER SIX: Yes.

THE CLERK: Juror Number 7, Vedajenne Wormely, is this your verdict as read?

JUROR NUMBER SEVEN: Yes.

THE CLERK: Juror Number 8, Lydia Ablaza, is this your verdict as read?

JUROR NUMBER EIGHT: Yes.

THE CLERK: Juror Number 9, Paul Shubert, is this your verdict as read?

JUROR NUMBER NINE: Yes.

1 THE CLERK: Juror Number 10, Keith Nelson, is
2 this your verdict as read?
3 JUROR NUMBER TEN: Yes.
4 THE CLERK: Juror Number 11, Joseph DeMilliano,
5 is this your verdict as read?
6 JUROR NUMBER ELEVEN: Yes.
7 THE CLERK: And Juror Number 12, Rachel Goldner,
8 is this your verdict as read?
9 JUROR NUMBER TWELVE: Yes.
10 THE COURT: Thank you, ladies and gentlemen.
11 This matter will have to go into the second
12 phase, what we refer to as the penalty phase.
13 I'm prepared to reconvene tomorrow at 10:30. Is
14 that going to be sufficient for the State? Are you
15 prepared to go forward?
16 MR. KANE: Yes, Your Honor.
17 MS. PANDUKHT: Yes, Your Honor.
18 THE COURT: On behalf of the defendant, are you
19 prepared --
20 MR. O'BRIEN: May we approach, Your Honor?
21 THE COURT: Certainly.
22 (Side bar discussion held off the record.)
23 THE COURT: Ladies and gentlemen, we will
24 reconvene tomorrow at 10:30. I do want to be fair. When
25 I explain to you that we're going to try and start at

1 10:30, I do have a criminal calendar. It's a calendar
2 that is required -- it's a type of calendar, if you will,
3 that has required us to start in the afternoon, usually.
4 I'm going to do my very best to be prepared to start at
5 10:30 tomorrow. There may be a need for us to start a
6 little bit later than that, but I'll try to move things as
7 quickly as I am able tomorrow on my calendar, so that we
8 can start at 10:30.
9 If for some reason you are assembled and ready
10 to start at 10:30 and we aren't able to do, so please bear
11 in mind that it is not the fault of these attorneys; but,
12 instead, it is because of my schedule. So, just so you
13 understand that.
14 Counsel, would you please approach one more
15 time, briefly.
16 (Side bar discussion held off the record.)
17 THE COURT: (The Court admonishes the jury for
18 the evening recess.) See you tomorrow at 10:30. Thank
19 you very much.
20 THE COURT: Where is the C.O.? Could you
21 approach, and would counsel approach as well.
22 (The Jury leaves the courtroom for the evening
23 recess, and court adjourned at 6:53 p.m.)
24 * * * * *
25 REPORTER'S CERTIFICATE

1
2 I hereby certify that the foregoing is a true,
3 accurate and complete transcription of my stenographic
4 notes taken at the time of the aforementioned trial
5 proceedings.
6
7 Jean M Dahlberg
JEAN M. DAHLBERG, RPR, CCR 759, CSR 11715
8
9 Dated: December 14, 2005
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DISTRICT COURT
CLARK COUNTY, NEVADA

ORIGINAL

STATE OF NEVADA, Plaintiff, vs. GLENFORD ANTHONY BUDD, Defendant.	Case No. C193182 Dept. No. XVIII VOLUME 7

FILED IN OPEN COURT
DEC 15 2005 20
SHIRLEY B. PARRAGUIRRE, CLERK
BY Kristen M. Brown
KRISTEN M. BROWN DEPUTY

REPORTER'S TRANSCRIPT OF JURY TRIAL

Before the Honorable Justice Nancy M. Saitta

Wednesday, December 14, 2005
11:30 a.m.

APPEARANCES:

For the State: EDWARD KANE, ESQ.
Deputy District Attorney

TALEEN PANDUKHT, ESQ.
Deputy District Attorney

For the Defendant: HOWARD BROOKS, ESQ.
Deputy Public Defender

TIMOTHY O'BRIEN, ESQ.
Deputy Public Defender

RECEIVED
DEC 15 2005
COUNTY CLERK

REPORTED BY: JANICE DAVID, CCR NO. 405note note

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2 STATE'S	Dr.	Cr.	Redr.	Recr.	VD.
3 **LAZON JONES, JR.**					
4 By Ms. Pandukht:	34				
5					
6 **KOKITHA JONES**					
7 By Mr. Kane:	40				
8					
9 **EARL MOORE**					
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12 **LINDA MOORE**					
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15 **LIZZIE MOORE**					
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18 DEFENSE					
19 **JAMES ESTEN**					
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23 **ADELE LEVY**					
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25 By Mr. Kane:		113			

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11 DEFENSE

12 Proposed Exhibits E - M 90

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1 LAS VEGAS, NEVADA, DECEMBER 14, 2005, 11:30 A.M.
2 * * * * *
3 THE COURT: I understand there are some
4 matters out of the presence.
5 MR. BROOKS: Yes, there are, judge.
6 Howard Brooks on behalf of Mr. Glenford Budd.
7 There are five issues I would like to address
8 briefly. The first is, I would like to make a
9 record as how I perceive what happened last night.
10 And perhaps the Court can then augment and clarify
11 what I don't know, because I don't know the full
12 story, but I want to make sure the record reflects
13 what I think occurred in terms of resolution of
14 this case.
15 At approximately 5:35 I received a
16 telephone message from your secretary saying that
17 the Court wanted to have a conference. There was
18 a conference at approximately 5:38 with Ed Kane on
19 the telephone, myself on the telephone, Tim
20 O'Brien on the telephone, and the Court on the
21 telephone. I believe at that time we were
22 informed that there had been two notes from the
23 jury. One note said the jury wanted to, they
24 wanted to know what time they were going to be
25 released that evening. The second note, I

1 believe, said that, that they had some obligations
2 after 6:00 o'clock that needed to be taken care
3 of. At that time the Court informed us that the
4 jury would be excused at approximately 5:40. I
5 left my office at approximately 5:40, and within
6 five minutes I received a phone call from the
7 Court's secretary saying that the jury had
8 apparently reached a verdict. And that was
9 confirmed at 6:00 o'clock.
10 If there is anything, I'm not sure if it
11 was actually instruction by the Court to the jury,
12 if the Court actually met with the jury or not.
13 THE COURT: Let me clarify for you. The
14 first note came at -- and I can't tell you what
15 time. I trust your time frame with respect to our
16 conference is accurate -- probably 15 minutes
17 before our phone conference. I first received a
18 note from the jurors indicating that they wanted
19 to know what time they could be excused. I didn't
20 even call you on that, because I simply sent the
21 note back to them with my bailiff instructed to
22 tell them, quite simply, keep deliberating. When
23 the second note came, that actually fully
24 explained that some of them had obligations
25 outside of the Court. At that time I called you

1 all, and it was my intention at that point to
2 bring the jury, as I told you, bring the jury back
3 into the courtroom, advise them they could be
4 excused for the evening but that they should be
5 prepared to come back and deliberate today.
6 Between the time that that oral message
7 was being conveyed from me to Mr. Bailiff, who
8 then walked, you know how close it is now. The
9 jury room is literally three doors away. They, as
10 he walked back into the room to tell them they
11 were going to be excused, they put up their hand
12 immediately, several of them -- and I don't care
13 if you polled them if you'd like -- and said,
14 we're almost at a verdict. So, no other
15 explanation was ever given to them. He just came
16 back, and he told me they were going to reach a
17 verdict. And at that point they said, give us a
18 few more minutes, you know. Give us a few more
19 minutes. We think we got a verdict. It was a
20 good, at least 20 to 25 minutes before I actually
21 knew that they had a verdict. So, it was an
22 additional, you know, period of time.
23 MR. BROOKS: Okay. Thank you, judge.
24 THE COURT: Sure. Anything else? You
25 said five items.

1 MR. BROOKS: Issue two, I can't recall if
2 I mentioned this on the record or not yesterday.
3 I might have said at some point that I wanted to
4 enter in all the volume numbers and the transcript
5 numbers for the purposes of appeal. I can't
6 recall if I actually said that on the record or
7 not. I've reviewed the transcripts we were
8 provided so far. The case and the volume numbers
9 are on all of the documents. So, any
10 clarification is unnecessary.
11 THE COURT: You were concerned about the
12 date of Friday, as I recall.
13 MR. BROOKS: That was one issue that we
14 had discussed, but I was, I had also mentioned
15 somewhere or another -- I'm not sure if it was on
16 the record or not -- that I was concerned that
17 perhaps some transcripts had volume numbers and
18 some did not. They all do. And the volume
19 numbers make sense, and it's completely
20 understandable.
21 THE COURT: Very good.
22 MR. BROOKS: Issue three, judge, Mr. Kane
23 and I have discussed this. I believe that we're
24 both agreed that the exclusionary rule is relaxed
25 during penalty proceedings and that members of the

1 victim's family and also my client's family may be
2 present in the courtroom during the proceedings.
3 MR. KANE: Correct, your Honor.
4 The COURT: That's correct.
5 MR. BROOKS: Mr. Kane and I also
6 discussed the issue of leading questions with
7 regard to the penalty proceeding, and I think we
8 both agree that we would like the Court's
9 permission to lead witnesses in order to keep
10 control of certain witnesses and make sure that
11 their testimony is more on point.
12 THE COURT: It is appropriate under the
13 circumstances. It is, in my mind, a wise thing
14 for each of you to do, and I appreciate the
15 agreement.
16 MR. BROOKS: Judge, this next matter is,
17 I mean, arguably can be considered almost
18 preliminary to settling jury instructions.
19 Mr. Kane has provided to me his proposed jury
20 instructions. I have reviewed those instructions,
21 and at this point in time I propose the change to
22 one instruction, which Mr. Kane has agreed to and
23 which he's going to revise. We do have a
24 disagreement on one issue. And I know the Court
25 is at a disadvantage. I don't think the Court has

1 a copy.
2 THE COURT: I do not.
3 MR. BROOKS: Do not? Okay. I'm going to
4 walk forward, Mr. Kane will walk forward and
5 provide a copy. The issue which we disagree on
6 involves the instruction but both an instruction
7 and a verdict. And I'm going to summarize what
8 the instruction says first. The instruction says,
9 murder of the first degree may be mitigated by any
10 of the following circumstances, even though the
11 mitigating circumstance is not sufficient to
12 constitute a defense or reduce the degree of the
13 crime. The list then is the statutory list of
14 mitigating instructions, which Mr. Kane and I have
15 both agreed we will delete certain mitigators we
16 do not feel are necessarily relevant to this case.
17 THE COURT: So, I will confine this
18 instruction, then, to those mitigators that more
19 accurately encompass this case.
20 MR. BROOKS: Correct, and the evidence to
21 be presented at the penalty phase. Mr. Kane also
22 does not oppose our including in the list certain
23 proposed mitigating circumstances that are not
24 statutory. And that would include, for example,
25 the defendant's diminished intelligence, which he

1 does not oppose.
2 Our disagreement, then, comes on the next
3 listing of a proposed mitigator. My intent would
4 be that we list one mitigator that says the impact
5 of the defendant's execution on his mother,
6 another one that says the impact of the
7 defendant's execution on his grandmother, another
8 one that says the impact of the defendant's
9 execution on his brother, another one that says
10 the impact of the defendant's execution on his
11 sister, Charmaine, another one that lists his
12 sister, Angel, and another one that says friends
13 and loved one. Mr. Kane would prefer to have that
14 be listed as one mitigating circumstance listing
15 all of those individuals in the, in the one
16 mitigating circumstance.
17 So, that's, that's where we disagree.
18 And we're going to move that we be allowed to have
19 them listed as individual mitigators since any one
20 of those circumstances may be considered
21 separately as a mitigating circumstance.
22 MR. KANE: I guess we're taking that up
23 now, because it's our only disagreement, and if we
24 can resolve it, my feeling is just that it's
25 adequately covered by saying to the jury, one of

1 the mitigating circumstances that you may consider
2 is the impact of his death by execution on his
3 family, friends, loved ones, anyone else. I think
4 that can adequately be covered in one. The
5 defense is certainly free to argue he's got
6 separate relatives and friends and all of their,
7 all of the impacts on all of those people need to
8 be considered, but the mitigating circumstance is
9 really the affect on everyone. You could multiply
10 that by a million and say the impact of his
11 execution on anyone who's ever known him, taught
12 him in school, palled around with him, played
13 basketball with him. There would be no end to
14 them once you start separating them out. I think
15 it's adequately covered simply by saying a
16 mitigating circumstance you may consider is the
17 impact of his death by execution on his family,
18 friends, and loved ones.
19 THE COURT: Anything further, Mr. Brooks?
20 MR. BROOKS: We'll submit that, judge.
21 THE COURT: You can present this
22 mitigator in the following manner: You may
23 identify as a mitigator the impact of that
24 execution upon family members, including, and then
25 you may name them. And then the next line, that

1 all in one sentence. Then the next one is other
2 friends, family members, or loved ones.
3 MR. BROOKS: So, it would be two, two
4 listed mitigators, one for family and one for
5 non-family?
6 THE COURT: Yes, but I'm also allowing
7 you to specifically and personally identify each
8 of those family members.
9 MR. KANE: And then in the second one,
10 judge, we'll consider, we'll include other family,
11 friends, and loved ones just in case there are
12 family members that aren't listed.
13 THE COURT: Correct.
14 MR. BROOKS: Can the record reflect that
15 when we stipulate to the instructions as Mr. Kane
16 will bring them back, that that would not waive
17 our objection on that particular issue?
18 THE COURT: Absolutely not.
19 MR. BROOKS: Okay. Judge, the final
20 issue is simply the scheduling issue.
21 The COURT: That's number six.
22 MR. BROOKS: I know. And I miscounted.
23 THE COURT: I wanted you to know I was
24 keeping track.
25 MR. BROOKS: Here's my understanding of

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLENFORD A BUDD,
Appellant,
vs.
THE STATE OF NEVADA
Respondent.

Supreme Court No.:
District Court Case No.: 03C193182

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Clerk of Supreme Court

APPELLANT'S APPENDIX – VOLUME VIII – PAGES 1509-1776

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Docket 66815 Document 2014-36959

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Budd, Glenford

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DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT
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KRISTEN M. BROWN

THE STATE OF NEVADA,
Plaintiff,
vs.
GLENFORD ANTHONY BUDD,
Defendant.

Case No.: C193182
Dept. No.: XVIII

VOLUME 6

ORIGINAL

REPORTER'S TRANSCRIPT OF JURY TRIAL

Before the Honorable Nancy M. Saitta, District Court Judge

Tuesday, December 13, 2005

1:35 p.m.

APPEARANCES:

For the State: EDWARD KANE, ESQUIRE
Deputy District Attorney

TALEEN PANDUKHT, ESQUIRE
Deputy District Attorney

For the Defendant: HOWARD BROOKS, ESQUIRE
Deputy Public Defender

TIMOTHY O'BRIEN, ESQUIRE
Deputy Public Defender

Reported by: Jean M. Dahlberg, RPR, CCR 759, CSR 11715

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1 LAS VEGAS, CLARK COUNTY, NEVADA
2 TUESDAY, DECEMBER 13, 2005; 1:36 P.M.
3 -oOo-
4 P R O C E E D I N G S
5 THE COURT: This is an opportunity. We've got
6 everybody, except -- do you want to proceed without the
7 defendant?
8 MR. BROOKS: I guess we should probably have him
9 here. I'm sorry.
10 THE COURT: I did just see the C.O. I thought
11 maybe --
12 MR. KANE: He probably brought the defendant
13 here.
14 THE COURT: Yeah. Hold on. Let's see if he's
15 here.
16 (Brief pause in proceedings.)
17 THE REPORTER: Mr. Brooks, did you want this on
18 the record?
19 MR. BROOKS: Yes, please.
20 THE COURT: We're ready.
21 MR. BROOKS: Judge, I don't know if a record
22 needs to be made on this, but I want to make sure the
23 record's clear. Yesterday, when we were in court, the
24 court reporter -- we were discussing the transcript. And,
25 apparently, there's an error in the heading on the

1 December 9th transcript. It was labeled as Friday,
2 December 8th, and I want to make certain that it is clear
3 on the record that there was a transcript filed on Friday,
4 December 9th, which was labeled Friday, December 8th.
5 THE COURT: And that correction will be noted
6 for the record.
7 MR. BROOKS: And I'm not sure, but I think that
8 we may have made a record -- may have made a lineation on
9 the actual document with the court.
10 THE COURT: If there is, I'm sure that my clerk
11 did. I'm glad that you did.
12 MR. BROOKS: Second issue, Judge, is during
13 opening statements, Mr. Kane -- at page 53 and 54 of the
14 transcript on Friday, December -- I'm sorry, Thursday,
15 December 8th -- said that, "say we presume testimony of
16 Tracey Richards," and Mr. Kane explained what she would
17 say if she testified.
18 And he said that she would testify that she
19 picked Glenford up, took him to her home in Henderson, Mr.
20 Glenford Budd spent the night there. In the morning, they
21 got up and Glenford told Tracey that he had had a dream,
22 and in this dream he dreamed that he killed three killed
23 people offer some marijuana. No such evidence was
24 actually presented by the State during trial. Tracey
25 Richards did not testify.

1 Under these circumstances, Judge, the jury has
2 been exposed to the State making factual statements not
3 supported by the record, statements of a highly
4 inculpatory and prejudicial nature. Therefore, because
5 this caused us due process, we ask for a mistrial.
6 THE COURT: Mr. Kane, do you wish to be heard?
7 MR. KANE: Judge, we had contacted and served
8 Tracey prior to trial. Throughout the trial she was in
9 phone contact with my investigator, and on several
10 occasions promised to come to court, and never did.
11 As the trial approached its close, I was faced
12 with a couple of choices: One was, of course, to get an
13 arrest warrant and go out and pick her up; one was to lay
14 a foundation for her unavailability and read her testimony
15 into the record -- as we already did that with Mr. Budd
16 and as he testified both as to admissions by the
17 defendant, the defendant's changed appearance and his
18 preparations for flight -- I deemed it not necessary to go
19 to those lengths to get her testimony into the record.
20 So, I made a choice not to call her and not to have a
21 warrant issued and go out and have her picked up or read
22 her testimony into the record.
23 If the Court feels that any curative action is
24 necessary, I suggest one of two on alternatives. We can
25 either into a stipulation on the record that Tracey

1 Richards was unavailable as a witness, or I can move to
2 reopen the case; if Mr. Brooks is so concerned about it,
3 I'll laid a foundation for her unavailability and we will
4 read her preliminary hearing testimony into the record.
5 Whichever make the defendant happy.
6 THE COURT: Did the preliminary injunction
7 hearing contain, in fact, the information -- the testimony
8 from the preliminary hearing -- contain the information
9 that you advised the jury that her testimony would elicit?
10 MR. KANE: It did, Your Honor, and I confirmed
11 that both by reading it and consultation with
12 Ms. Pandukht, who was present at the preliminary hearing.
13 THE COURT: Mr. Brooks.
14 MR. BROOKS: Judge, I will simply say that what
15 I desire, as far as a remedy, is that the defense -- well,
16 I've asked for a mistrial. If the Court is not inclined
17 to grant a mistrial, then I would ask that the defense be
18 allowed to comment in the closing argument that the State
19 mentioned this evidence and the State did not present the
20 evidence.
21 THE COURT: Mr. Kane, do you many wish to be
22 heard on that request?
23 MR. KANE: As long as I can comment the response
24 that the witness was unavailable.
25 THE COURT: It is what it is. I think you both

1 can make those comments within the law motion.
2 The mistrial -- motion for mistrial is denied.
3 You certainly may both make those comments.
4 And let me clear up the record, in saying that
5 although we began these outside the presence --
6 proceedings -- as the defendant was just coming in from
7 the lockup area, he was present during all of these
8 opening arguments, as were all counsel.
9 And we'll get a check whether or not we have a
10 full jury, and then I'll and back.
11 Mr. O'Brien?
12 MR. O'BRIEN: May we discuss something off the
13 record? It doesn't need to be on the record.
14 THE COURT: Certainly.
15 (Brief discussion held off the record.)
16 MR. KANE: I just have two quick things that I'd
17 like to put on the record, as long as they're not here.
18 THE COURT: Certainly.
19 MR. KANE: One, has to do with Celeste Palau,
20 testified at trial. I discussed this matter with
21 Mr. Brooks, and here's the situation: At the time that
22 Celeste Palau first came forward, she asked us for some
23 help in relocating her. She didn't necessarily want to
24 still be at the Saratoga Palms. We said we'd help her.
25 It turned out that the same landlord had an available

1 apartment at another location and, so, it would have cost
2 us $30.
3 When we were interviewing her in preparation for
4 this trial, she let us know that in the last few weeks she
5 had a series of incidents -- kids calling her snitch lady
6 in the street, coming home and finding her door unlocked;
7 things that made her nervous but things that -- I'm not
8 trying to attribute to the defendant and there's certainly
9 no connection with the defendant.
10 Because of those things she asked me if we'd be
11 willing to help her out with limited funds for relocation
12 once the trial was over. Our budget for those things is
13 ordinarily about $300. And I told her that we would do
14 that.
15 I forgot to mention these things to Mr. Brooks
16 prior to her testimony; but after she testified and while
17 the trial was still going on, I let Mr. Brooks know about
18 them, because they are arguably inducements to the
19 witness. I believe that Mr. Brooks, based on his
20 conversations with me, made the tactical decision that
21 there was no point in bringing that out in front of the
22 jury, since there is no evidence connecting these
23 activities with the defendant, and since the amounts of
24 money already paid to her or to be paid to her are pretty
25 small to have influenced her testimony.

1 So, again, I'm just making a record on it, and
2 there's no action required by the Court.
3 THE COURT: Mr. O'Brien or Mr. Brooks, do you
4 want to be heard?
5 MR. BROOKS: Nothing that's coming, Judge.
6 THE COURT: Very well.
7 MR. KANE: And the other thing is that I
8 mentioned to you yesterday that we had some concerns about
9 Greg Lewis. That letter that was written and it's
10 dissemination within the prison system. Because of that,
11 and my conversation with the jail, which lead me to
12 believe that he'll be shipped out immediately absent an
13 order of the Court.
14 I've prepared an order for the Court asking that
15 he be kept here at the Clark County Detention Center until
16 a date in January that's convenient to the court, and then
17 we'll have a status check and I'll let the Court know what
18 we've been able to come up with.
19 THE COURT: We discussed that action here at the
20 bench, as I recall. And I think that's appropriate.
21 Is there anything from the defense?
22 MR. BROOKS: No.
23 THE COURT: Very well.
24 Will you prepare the order and submit it over to
25 me?

1 MR. KANE: Will do. Thank you, Judge.
2 THE COURT: How are we on -- really?
3 Okay. Give me two seconds, and I'll be right
4 back.
5 (Jury enters courtroom.)
6 THE COURT: Good afternoon. Please be seated.
7 Welcome back.
8 MR. O'BRIEN: My apologies. Let me just call
9 Mr. Brooks. He's in the hallway.
10 THE COURT: Certainly.
11 (Brief pause in proceedings.)
12 THE COURT: Let the record reflect that we are
13 again present in the matter of the State of Nevada versus
14 Glenford Budd, Case Number C193182.
15 All parties and counsel are present.
16 Will you stipulate to the presence of the jury?
17 MR. KANE: Yes, Your Honor.
18 MR. BROOKS: Defense will, Your Honor.
19 THE COURT: Very well.
20 Ladies and gentlemen, as I told you last
21 evening, this is the time when I will instruct you on the
22 law. And our attorneys, if they choose, will make closing
23 arguments.
24 I want to remind you that anything our attorneys
25 say in closing argument is not evidence. The evidence is

1 that which you have seen and heard in this courtroom and
2 that which you may have in the back in your jury
3 deliberation room, with you, certain things that have been
4 admitted into evidence.
5 With that, I will begin.
6 Instruction Number 1: "It is now my duty as
7 judge to instruct you in the law that applies to this
8 case. It is your duty as jurors to follow these
9 instructions and to apply the rules of law to the facts as
10 you find them from the evidence.
11 "You must not be concerned with the wisdom of
12 any rule of law stated in these instruction. Regardless
13 of any opinion you may have as to what the law ought to
14 be, it would be a violation of your oath to base a verdict
15 upon any other view of the law than that given in the
16 instructions of the Court."
17 Number 2: "If, in these instructions, any rule,
18 direction or idea is repeated or stated in different ways,
19 no emphasis thereon is intended by me and none may be
20 inferred by you. For that reason, you are not to single
21 out any certain sentence or any individual point or
22 instruction and ignore the others, but you are to consider
23 all the instructions a whole and regard each in the light
24 of all the others.
25 "The order in which the instructions are given

1 has no significance as to their relative importance."
2 Number Three: "An Information is but a formal
3 method of accusing a person of a crime and is not of
4 itself any evidence of his guilt.
5 "In this case, it is charged in an Information
6 that or between May 26 and May 27, 2003, the defendant
7 committed the offense of Murder with Use of a Deadly
8 Weapon" which is a "felony; in that
9 "Count 1 -- He did then and there willfully,
10 feloniously, without authority of law, and with
11 premeditation and deliberation, and with malice
12 aforethought, kill Dajon Jones, a human being, by shooting
13 at and into the body of said Dajon Jones, with a deadly
14 weapon, to whit: a firearm.
15 "Count 2 -- He did then and there willfully,
16 feloniously, without authority of law, and with
17 premeditation and deliberation, and with malice
18 aforethought, kill Derrick Jones, a human being, by
19 shooting at and into the body of the said Derrick Jones,
20 with a deadly weapon, to whit: a firearm.
21 Count 3 (sic) -- He did then and there
22 willfully, feloniously, without authority of law, and with
23 premeditation and deliberation, and with malice
24 aforethought, kill Jason Moore, a human being, by shooting
25 at and into the body of the said Jason Moore, with a

1 deadly weapon, to wit: a firearm."
2 Number 4: "In this case the defendant is
3 accused in an Information alleging an open charge of
4 murder. This charge may include murder of the first
5 degree or murder of the degree or voluntary manslaughter.
6 "The jury must decide if the defendant is guilty
7 of any offense and, if so, of which offense."
8 Number 5: "Murder is the unlawful killing of a
9 human being, with malice aforethought, either express or
10 implied."
11 Number 6: "Malice aforethought mens the
12 intentional doing of a wrongful act without legal cause or
13 excuse or what the law considers adequate provocation.
14 The condition of mind described as malice aforethought may
15 arise, from anger, hatred, revenge or from particular ill
16 will, spite or grudge toward the person killed. It may
17 also arise from any unjustifiable or unlawful motive or
18 purpose to injure another, or with reckless disregard of
19 consequences and social duty. Malice aforethought does
20 not imply deliberation or the lapse of any considerable
21 time between the malicious intention to injure another and
22 the actual execution of the intent but denotes an unlawful
23 purpose and design as opposed to accident and mischance.
24 "Express malice is that deliberate intention
25 unlawfully to take away the life of a human being, which

1 is manifested by external circumstances capable of proof.
2 "Malice maybe implied when no considerable
3 provocation appears, or when all the circumstances of the
4 killing show an abandoned and malignant heart."
5 Number 7: "Murder of the first degree is murder
6 which is perpetrated by means of any kind of willful,
7 deliberate, and premeditated killing. All three
8 elements -- willfulness, deliberation, and
9 premeditation -- must be proven beyond a reasonable doubt
10 before an accused can be convicted of first-degree murder.
11 "Willfulness is the intent to kill. There need
12 be no appreciable space of time between formation of the
13 intent to kill and the act of killing.
14 "Deliberation is the process of determining upon
15 a course of action to kill as a result of thought,
16 including weighing the reasons for and against the action
17 and considering the consequences of the actions.
18 "A deliberate determination may be arrived at in
19 a short period of time. But in all cases the
20 determination must not be formed in passion, or if formed
21 in passion, it must be carried out after there has been
22 time for the passion to subside and deliberation to occur.
23 A mere unconsidered and rash impulse is not deliberate,
24 even though it includes the intent to kill.
25 "Premeditation is a design, a determination to

1 kill, distinctly formed in the mind by the time of the
2 killing.
3 "Premeditation need not be for a day, an hour,
4 or even a minute. It may be as instantaneous as
5 successive thoughts of the mind. For if the jury believes
6 from the evidence that the act constituting the killing
7 has been preceded by and has been the result of
8 premeditation, no matter how rapidly the act follows the
9 premeditation, it is premeditated."
10 Number 8: "The law does not undertake to
11 measure in units of time the length of the period during
12 which the thought must be pondered before it can ripen
13 into an intent to kill which is truly deliberate and
14 premeditated. The time will vary with different
15 individuals and under varying circumstances.
16 "The true test is not the duration of time, but
17 rather the extent of the reflection. A cold, calculated
18 judgment and decision may be arrived at in a short period
19 of time, but a mere unconsidered and rash impulse, even
20 though it includes an intent to kill, is not deliberation
21 and premeditation as will fix an unlawful killing as
22 murder of the first degree."
23 Number 9: "All murder which is not Murder of
24 the First Degree is Murder of the Second Degree. Murder
25 of the Second Degree is:

1 "(a) murder with malice aforethought, but
2 without the admixture of premeditation and deliberation;
3 or,
4 "(b) where an involuntary killing occurs in the
5 commission of an unlawful act, which in its consequences,
6 naturally tends to take the life of a human being or is
7 committed in the prosecution of a felonious intent."
8 Number 10: "You are instructed that if you
9 find, beyond a reasonable doubt, that the State has
10 established that the defendant has committed first degree
11 murder you shall select first degree murder as your
12 verdict.
13 "If, however, you are convinced beyond a
14 reasonable doubt that the crime of murder has been
15 committed by the defendant, but you have a reasonable
16 doubt whether such murder was of the first or of the
17 second degree, you must give the defendant the benefit of
18 that doubt and return a verdict of murder of the second
19 degree.
20 "The crime of first degree murder includes the
21 crime of second degree murder. You may consider the
22 lesser included offense of second degree murder if, after
23 fully and carefully considering the offense of first
24 degree murder, either:
25 "(1) you have found the defendant not guilty of

1 first degree murder, or
2 "(2) you have been unable to agree whether to
3 acquit or convict on the charge of first degree murder."
4 Number 11: "Manslaughter is the unlawful
5 killing of a human being without malice express or implied
6 and without any mixture of deliberation.
7 "Voluntary Manslaughter is a voluntary killing
8 upon a sudden heat of passion, caused by a provocation
9 apparently sufficient to make the passion irresistible.
10 "The provocation required for Voluntary
11 Manslaughter must either consist of a" series -- "of a
12 serious and highly provoking injury inflicted upon the
13 person killing, sufficient to excite an irresistible
14 passion in a reasonable person, or an attempt by the
15 person killed to commit a serious personal injury on the
16 person killing. The serious and highly provoking injury
17 which causes the sudden heat of passion can occur without
18 direct physical contact.
19 "For the sudden, violent impulse of passion to
20 be irresistible, resulting in a killing which is Voluntary
21 Manslaughter, there must not have been an interval between
22 the assault or provocation and the killing sufficient for
23 the voice of reason and humanity to be heard; for, if
24 there should appear to have been an interval between the
25 assault or provocation given and the killing, sufficient

1 for the voice of reason and humanity to be heard, then the
2 killing shall be determined by you to be murder. The law
3 assigns no fixed period of time for such an interval but
4 leaves its determination to the jury under the facts and
5 circumstances of the case."
6 Number 12: "The heat of passion which will
7 reduce a homicide to Voluntary Manslaughter must be such
8 an irresistible passion as naturally would be aroused in
9 the mind of an ordinarily reasonable person in the same
10 circumstances. A defendant is not permitted to set up his
11 own standard of conduct and to justify or excuse himself
12 because his passions were aroused unless the circumstances
13 in which he was placed and the facts that confronted him
14 were such as also would have aroused the irresistible
15 passion of the ordinarily reasonable man if likewise
16 situated. The basic inquiry is whether or not, at the
17 time of the killing, the reason of the accused was
18 obscured or disturbed by passion to such an extent as
19 would cause the ordinarily reasonable person of average
20 disposition to act rashly and without deliberation and
21 reflection and from such passion rather than from
22 judgment."
23 Number 13: "If you find, beyond a reasonable
24 doubt, that the State has established that the defendant
25 has committed murder you shall select the appropriate

1 degree of murder as your verdict.
2 "If, however, you are satisfied beyond a
3 reasonable doubt that the killing was unlawful, but you
4 have a reasonable doubt whether the crime is murder or
5 manslaughter, you must give the defendant the benefit of
6 that doubt and return a verdict of voluntary manslaughter.
7 "The crime of murder may include the crime of
8 voluntary manslaughter. You may consider the lesser
9 included offense of voluntary manslaughter if, after fully
10 and carefully considering the offense of murder, either:
11 "(1) you have found the defendant not guilty of
12 murder, or
13 "(2) you have been unable to agree whether to
14 acquit or convict on the charge of murder."
15 Number 14: "'Deadly weapon' means any
16 instrument which, if used in the ordinary manner
17 contemplated by its design and construction, will or is
18 likely to cause substantial bodily harm or death.
19 "A firearm is a deadly weapon."
20 Number 15: "If you find beyond a reasonable
21 doubt that a defendant committed Murder with the Use of a
22 Deadly Weapon, or Voluntary Manslaughter with the Use of a
23 Deadly Weapon, then you are instructed that the verdict of
24 Murder (in the appropriate degree), or Voluntary
25 Manslaughter, with the Use of a Deadly Weapon, is the

1 appropriate verdict.
2 "If, however, you find that a deadly weapon was
3 not used in the commission of the crime, but you do find
4 that a Murder was committed, or that Voluntary
5 Manslaughter was committed, then you are instructed that
6 the verdict of Murder (in the appropriate degree) without
7 the Use of a Deadly Weapon, or Voluntary Manslaughter
8 without the Use of a Deadly Weapon, is the appropriate
9 verdict.
10 "You are instructed that you cannot return a"
11 murder "of both" -- strike that.
12 "You are instructed that you cannot return a
13 verdict of both Murder (in either degree), or
14 Manslaughter, with the Use of a Deadly Weapon, and Murder
15 (in either degree), or Manslaughter, without the Use of a
16 Deadly Weapon."
17 Number 16: "To constitute the crime charged,
18 there must exist a union or joint operation of an act
19 forbidden by law and an intent to do the act.
20 "The intent with which an act is done is shown
21 by the facts and circumstances surrounding the case.
22 "Do not confuse intent with motive. Motive is
23 what prompts a person to act. Intent refers only to the
24 state of mind with which the act is done.
25 "Motive is not an element of the crime charged

1 and the State is not required to prove a motive on the
2 part of the Defendant in order to convict. However, you
3 may consider evidence of motive or lack of motive as a
4 circumstance in this case."
5 Number 17: "The Defendant is presumed innocent
6 until the contrary is proved. This presumption places
7 upon the State the burden of proving beyond a reasonable
8 doubt every material element of the crime charged and that
9 the Defendant is the person who committed the offense.
10 "A reasonable doubt is one based on reason. It
11 is not mere possible doubt but is such a doubt as would
12 govern or control a person in the more weighty affairs of
13 life. If the minds of the jurors, after the entire
14 comparison and consideration of all the evidence, are in
15 such a condition that they can say they feel an abiding
16 conviction of the truth of the charge, there is not a
17 reasonable doubt. Doubt to be reasonable must be actual,
18 not mere possibility or speculation.
19 "If you have a reasonable doubt as to the guilt
20 of the Defendant, he is entitled to a verdict of not
21 guilty."
22 Number 18: "The evidence which you are to
23 consider in this case consists of the testimony of the
24 witnesses, the exhibits, and any facts admitted or agreed
25 to by counsel.

1 "There are two types of evidence; direct and
2 circumstantial. Direct evidence is the testimony of a
3 person who claims to have personal knowledge of the
4 commission of the crime which has been charged, such as an
5 eyewitness. Circumstantial evidence is the proof of a
6 chain of facts and circumstances which tend to show
7 whether the Defendant is guilty or not guilty. The law
8 makes no distinction between the weight to be given either
9 direct or circumstantial evidence. Therefore, all of the
10 evidence in the case, including the circumstantial
11 evidence, should be considered by you in arriving at your
12 verdict.
13 "Statements, arguments and opinions of counsel
14 are not evidence in the case. However, if the attorneys
15 stipulate to the existence of a fact, you must accept the
16 stipulation as evidence and regard that fact as proved.
17 "You must not speculate to be true any
18 insinuation suggested by a question asked a witness. A
19 question is not evidence and may be considered only as it
20 supplies meaning to the answer.
21 "You must disregard any evidence to which an
22 objection was sustained by the court and any evidence
23 ordered stricken by the court.
24 "Anything that you may have seen or heard
25 outside the courtroom is not evidence and must also be

1 disregarded."

2 Number 19: "The credibility or believability of
3 a witness should be determined by his manner upon the
4 stand, his" or her "relationship to the parties, his" or
5 her "fears, motives interests or feelings, his" or her
6 "opportunity to have observed the matter to which he
7 testified, the reasonableness of his statements and the
8 strength or weakness of his recollections.

9 "If you believe that a witness has lied about
10 any material fact in the case, you may disregard the
11 entire testimony of that witness or any portion of his" or
12 her "testimony which is not proved by other evidence."

13 Number 20: "A witness who has special
14 knowledge, skill, experience, training or education in a
15 particular science, profession or occupation is an expert
16 witness. An expert witness may give his opinion as to any
17 matter in which he is skilled.

18 "You should consider such expert opinion and
19 weigh the reasons, if any, given for it. You are not
20 bound, however, by such an opinion. Give it the weight to
21 which you deem it entitled, whether that be great or
22 slight, and you may reject it, if, in your judgment, the
23 reasons given for it are unsound."

24 Number 21: Although you are to consider only
25 the evidence in the case in reaching a verdict, you must

1 bring to the consideration of the evidence your everyday
2 common sense and judgment as reasonable men and women.
3 Thus, you are not limited solely to what you see and hear
4 as the witnesses testify. You may draw reasonable
5 inferences from the evidence which you feel are justified
6 in the light of common experience, keeping in mind that
7 such inferences should not be based on speculation or
8 guess.
9 "A verdict may never be influenced by sympathy,
10 prejudice or public opinion. Your decision should be the
11 product of sincere judgment and sound discretion in
12 accordance with these rules of law."
13 Number 22: "In your deliberation you may not
14 discuss or consider the subject of punishment. Your duty
15 at this time is confined to the determination of whether
16 or not the State has proven the guilt of the defendant
17 beyond a reasonable doubt."
18 Number 23: "When you retire to consider your
19 verdict, you must select one of your number to act as
20 foreperson who will preside over your deliberation and
21 will be your spokesperson here in court.
22 "During your deliberation, you will have all the
23 exhibits which were admitted into evidence, these written
24 instructions and forms of verdict which have been prepared
25 for your convenience.

1 "Your verdict must be unanimous. As soon as you
2 have agreed upon a verdict, have it signed and dated by
3 your foreperson and then return with it to this
4 room."
5 Number 24: "If, during your deliberation, you
6 should desire to be further informed on any point of law
7 or hear again portions of the testimony, you must reduce
8 your request to writing signed by the foreperson. The
9 officer will then return you to court where the
10 information sought will be given you in the presence of,
11 and after notice to, the district attorney and the
12 Defendant and his counsel.
13 "Readbacks of testimony are time-consuming and
14 are not encouraged unless you deem it a necessity. Should
15 you require a readback, you must carefully describe the
16 testimony to be read back so that the court reporter can
17 arrange her notes. Remember, the court is not at liberty
18 to supplement the evidence."
19 Number 25: "Now you will listen to the
20 arguments of counsel who will endeavor to aid you to reach
21 a proper verdict by refreshing in your minds the evidence
22 and by showing the application thereof to the law; but,
23 whatever counsel may say, you will bear in mind that it is
24 your duty to be governed in your deliberation by the
25 evidence as you understand it and remember it to be and by

1 the law as given to you in these instructions, with the
2 sole, fixed and steadfast purpose of doing equal and exact
3 justice between the Defendant and the State of Nevada."
4 On behalf of the State, Mr. Kane and
5 Ms. Pandukht you are prepared for closing statement?
6 MS. PANDUKHT: Yes, Your Honor.
7 THE COURT: You may proceed.
8 CLOSING STATEMENT BY THE STATE
9 MS. PANDUKHT: As the defendant himself wrote to
10 Greg Lewis in that rap song that you all saw and heard,
11 "Call me the 'Murda Mann,' "I'm a Thrilla Killa." "I
12 killed 3 but I shoulda killed 4, left them dead on the
13 floor," the evidence in this case is absolutely
14 overwhelming and it consistently identifies this defendant
15 Glenford Budd as the person who committed the crimes of
16 three counts of first-degree murder with use of a deadly
17 weapon.
18 Now that you have heard all of evidence in this
19 case which includes the testimony of the witnesses that
20 you have heard from, the photographs that you have seen,
21 as well as the physical pieces of evidence, you basically
22 have two questions to decide: The first one is who
23 committed these crimes; and what specific crimes were
24 committed?
25 Now, I'm going deal with the first question

1 first -- actually, the second question first -- because
2 who committed these crimes is something that's not really
3 the issues in this case. We all know who committed these
4 crimes, and you heard that in several different ways. And
5 first, I'd like to describe one of the instructions that
6 you're going to have back with you, and that is the one
7 for circumstantial evidence. Because there's basically
8 two types of evidence: There's direct evidence; and
9 circumstantial evidence. And direct evidence is testimony
10 of somebody that has personal knowledge -- and you can
11 read this for yourselves back in the jury deliberation
12 room. It's in Number 18. They're like an eyewitness.
13 They're somebody that actually saw something, such as
14 Celeste Palau, an eyewitness who was across the way from
15 the apartment and saw the defendant shooting on the
16 balcony of Apartment 2068.
17 But you also have what's called circumstantial
18 evidence, and that is also defined in Instruction Number
19 18, and that's a proof of a chain of facts or
20 circumstances that tend to show guilt or innocence -- or
21 tend to proof guilt or innocence.
22 And a way to kind of understand what that might
23 really be like is an example I like to use about rain.
24 Imagine you're driving home one day and you see dark
25 clouds in the sky, the clouds are in the sky, it's

1 overcast. And you're driving home and you go inside for
2 the evening. And throughout the course of evening you
3 don't actually go up to your window and look outside to
4 whether it's raining, but periodically you see flashes of
5 light coming through your windows, you hear loud, booming
6 noises. And when you wake up the next morning you go out
7 to see your paper, your paper's all wet, and there's drops
8 of water on your car that you left outside, the ground on
9 your on driveway is wet, your neighbor's driveway is wet,
10 the street is wet. Now, you didn't actually see it rain
11 the night before. But you all know that it rained. And
12 that is the strength of circumstantial evidence, and
13 that's what you have with the testimony of Lazon Jones.
14 Lazon Jones did not actually see this defendant
15 shoot his brother Dajon. What Lazon Jones knows is that
16 he's hanging out with the defendant throughout the course
17 of the day. And they go play basketball together, they
18 spend the day together, and they're all hanging out at the
19 apartment, and John's in that master bedroom alone with
20 the door shut. You also have Derrick and Jason and Lazon
21 inside of that living room.
22 And the first picture I wanted you to see --
23 MS. PANDUKHT: Is this up and running?
24 (Brief discussion held off the record.)
25 MS. PANDUKHT: Okay. This is the first picture

1 I wanted you to see. And the reason is, is because you
2 can see from this photograph that the proximity of what
3 we're talking about in terms of that apartment is very,
4 very close. Right here you have the front door of the
5 apartment, and this is the living room that they're
6 talking about, with the TV and the couch. And this right
7 here, this last room right here, is the bedroom that's the
8 north master bedroom that Dajon Jones was in. And that is
9 exactly, in this one picture, you can see that the
10 defendant, when he leaves that evening, comes back in
11 through the front door. Lazon is sitting either on that
12 couch or the other one in that room, sees him walk to the
13 back into that back north master bedroom, where he shuts
14 the door.
15 It's then that Lazon hears two gunshots. He
16 runs up to the front door -- and you can see that the
17 proximity is very, very close. They're all right next to
18 each other. He runs to the front door, but he hesitates.
19 And then he hears the defendant say, "Where's my stuff
20 at?" And then he hears that third gunshot and he's out of
21 there. He start running. He doesn't have his shoes on.
22 He is running and leaves down the stairs, across the
23 street, to the Charleston and Mojave 7-Eleven that's down
24 on the corner.
25 And we know that he did that because not only

1 does he testify to it, you also heard the testimony of the
2 detectives, Wallace and Spencer, who just happened to be
3 there and see him running across the street towards
4 Charleston without any shoes on, right before they find
5 the bodies of Derrick and Dajon and Jason Moore.
6 Now, he runs out and he does not see this
7 defendant shoot anyone. His testimony, however, is very
8 important, because he puts five people inside that
9 apartment. Only the defendant, only Lazon, and three dead
10 people are inside that apartment. And when he leaves that
11 apartment, Dajon has already been shot twice in that
12 bedroom. We later find out that both Derrick and Jason
13 are dead in that room and the defendant is the only one in
14 there. That evidence is very important.
15 And not then, in combination with the eyewitness
16 testimony of Celeste Paul who, after these sees Krissy and
17 Lazon running down the stairs, she sees the defendant come
18 out the front door. She testified that she saw smoke
19 coming out of the door. You also heard that same
20 testimony from Detectives Wallace and Spencer, that as
21 soon as they entered the apartment, they had seen smoke or
22 a haze as if gunfire had just happened in there. And then
23 she sees this defendant who she identified as being A.I.,
24 the defendant Glenford Budd, come out of the front door.
25 And when he's standing in front of the front door, she

1 sees him raise a gun and start shooting at something on
2 the ground. And he's aiming towards something that she
3 cannot see.
4 You see, Celeste Palau's testimony is so
5 important because Celeste Palau doesn't know that Jason
6 Moore is the one that is on that balcony. When she sees
7 this happen, she doesn't know that is he is the one
8 crawling from the front door all the way to the corner
9 here where the defendant keeps shooting him as he's trying
10 to crawl away from him. She hears several, what she
11 things are firecrackers, before she sees the defendant
12 come out, and then she testifies that she sees him shoot
13 three times -- raise his hand three times. Those are the
14 exact number of bullet wounds in Jason Moore's body.
15 So, now you have the testimony of Lazon. You
16 have the testimony of Celeste. You also have the
17 testimony of James Krylo, the firearms examiner. He
18 testified that eleven cartridges cases were found at the
19 scene. And while he cannot compare those to an actual
20 firearm, because one was never recovered, he did testify
21 that all eleven of those cartridge cases were fired by a
22 single firearm, a nine millimeter; and those bullets --
23 five or six bullets that were found at the scene -- those
24 were all consistent with nine millimeter caliber
25 cartridges.

1 But there are other ways that you know that this
2 defendant committed these crimes. And you know that
3 because of the defendant's own words. The defendant spoke
4 to several people about what he did. The defendant spoke
5 to his uncle. After he flees the scene and runs away, he
6 goes and calls his uncle to pick him up from a house that
7 he's at in Henderson. Now, when he calls his uncle, he
8 tells him what he did. And, specifically you heard from
9 the testimony that was read yesterday, that he said they
10 were trying to rob him of his weed, so he shot them. He
11 said gave the gun back to some friend.
12 And later, when he actually was picked up by his
13 uncle, his uncle noticed that the long braided hair that
14 the defendant used to have -- and you heard this from
15 several witnesses -- he cut it all off. He shaved off his
16 hair, basically, and tried to change his appearance. He
17 also, then, goes to his uncle's house, and once he's there
18 with his uncle, the police come to the house. And then
19 you also heard through the testimony that was read that
20 his uncle, Winston Budd, tried to convince him to turn
21 himself in. He told him, even, that he could possibly get
22 death or a life sentence in prison. And what did the
23 defendant say? That he preferred to run. And run he did,
24 until he was caught by the police in this case.
25 And then he makes statements to Detective

1 Vaccaro. You heard Detective Vaccaro testify that while
2 the defendant did not admit to shooting anyone, he agreed
3 with Lazon, five people were in that apartment. He puts
4 himself, Dajon, Jason, Lazon, and Derrick Jones in that
5 apartment; that there were only five of them; that he ran
6 out of the apartment, as well as Lazon, and the other
7 three were dead. He said he heard a shot but he didn't do
8 it.
9 You also have the testimony, finally, of Greg
10 Lewis. Greg Lewis was in the Clark County Detention
11 Center with the defendant. And about five or six months
12 after these shootings, he tells Greg Lewis about what he
13 did. And you heard from Greg Lewis that in October or
14 November of 2003, he tells him that he shot and killed
15 three people, and the fourth one got away. Again,
16 consistent with all of the other evidence that you heard,
17 corroborate by the testimony of Lazon Jones, and he said
18 that he was mad because he believed some kids living in
19 the apartments took his weed.
20 That was also the same story that he told to
21 Detective Vaccaro. He told Detective Vaccaro, as well as
22 Greg Lewis, that he shot and killed these three victims
23 over a half a pound of weed; that he allegedly believed
24 they had stolen from him.
25 He also tells Greg Lewis something else, that he

1 hung out with them and played basketball with them all day
2 to try and figure out which one of them stole his weed.
3 So, all day he's spending with him before he ultimately
4 ends up shooting and killing them at midnight that night.
5 So, you have the testimony of eyewitnesses, you
6 have the testimony of witnesses who the defendant made
7 admissions to, and all of that evidence clearly identifies
8 this defendant as being the shooter.
9 But, again, like I said, that is not the issue
10 in this case. The issue in this case is: Was first
11 degree murder with use of a deadly weapon.
12 And that's what I'm going to be focusing on.
13 And the easiest way to start, first, is the deadly weapon
14 instruction --
15 Okay. I don't know -- there we go.
16 Okay. Instruction Number 14 tells us that a
17 deadly weapon is any instrument which used in the ordinary
18 manner contemplated by its design or construction will or
19 is likely to cause substantial bodily harm or death. A
20 firearm is a deadly weapon.
21 Now, was a firearm or deadly weapon used in this
22 case? Well, as we know, one was never recovered. We know
23 what happened. We know the defendant was able to get away
24 and flee the scene, and he told his uncle that he gave the
25 gun to some friend. But how else do we know that a

1 firearm was used in this case? Well, we know from the
2 evidence left at the scene. The evidence left at the
3 scene shows eleven cartridge cases at the scene all being
4 fired by a single firearm, a nine millimeter. We also
5 have bullets found at the scene, as well as bullet
6 fragment.
7 A firearm is a deadly weapon. But also is it
8 likely to cause substantial bodily harm or death? Well,
9 you heard Dr. Worrell, the medical examiner testify. She
10 said all three of the victims died of multiple gunshots
11 wounds, that several of those wounds would have been
12 fatal, and you know from the bullets found inside of their
13 bodies that definitely a firearm was used in this case and
14 certainly qualifies as a deadly weapon. Your verdict
15 should definitely include the enhancement of with a deadly
16 weapon.
17 Now, the next instruction I wanted to discuss is
18 Number 16. Instruction Number 16 talks about intent
19 versus motive. You've heard a lot about this and, so, I
20 wanted to definitely address this to you. To constitute
21 the crime charged there must exist a union or joint
22 operation of an act forbidden by law and an intent to do
23 the act. The intent with which an act is done is shown by
24 the facts and circumstances surrounding the case.
25 Do not confuse intent with motive. Motive is

1 what prompts a person to act; intent refers only to the
2 state of mind with which the act is done. And basically
3 it goes on to say that the State is not required to prove
4 a motive. But you have heard incredible testimony about
5 why this defendant allegedly shot these three young people
6 and, basically, it was over the half pound of weed. We
7 know that from what he says to Winston Budd, Detective
8 Vaccaro and to Greg Lewis.
9 Now, you also heard Lazon testified that Derrick
10 denied it. And whether or not it is true, is absolutely
11 irrelevant. The State doesn't need to prove anything with
12 regard to whether or not that half a pound of weed
13 existed, whether or not the victim's actually stole it.
14 That's something that should not be confused with what the
15 real issue is; and that is the intent with which the
16 defendant committed these crimes.
17 And that brings me to the general definition of
18 murder, and that one I'm not going to be placing up on the
19 monitor, because it's very, very short. Basically, murder
20 is an unlawful killing of a human being with malice
21 aforethought, either express or implied. Now, this
22 Instruction is Number 6, and that basically defines what
23 is malice aforethought. Well, as the Instruction states,
24 malice aforethought means the intentional doing of a
25 wrongful facts without legal cause or excuse or what the

1 law considers adequate provocation.
2 Now, in this case, we have, all the way down
3 there toward the end, we have express malice in this case.
4 Express malice is that deliberate intention unlawfully to
5 take away the life of a human being, which is manifested
6 by external circumstances capable of proof.
7 Now, how do we have evidence of express malice
8 in this case? Well, we have that in the actual acts
9 committed by this defendant, first of all. This defendant
10 shoots an unarmed individual, Dajon Jones, as he is
11 inside, alone, in that master bedroom. Lazon hears three
12 shots. Dajon is actually shot two times. And we know he
13 was shot at close range from the testimony of Dr. Worrell,
14 who described to you what she called the stippling pattern
15 that was on his neck, which showed that he, the defendant,
16 was less than two feet away from Dajon Jones when he shot
17 him twice in the neck.
18 And we also know that there was evidence of
19 express malice because he shoots him more than once. This
20 was not an accident. This was not something, as the
21 Instruction states, you don't want it to be an accident or
22 mischance. That's certainly not what we have in this
23 case.
24 And you also see that same justification for
25 Derrick Jones. He shoots Derrick Jones seven times. And

1 what's interesting about that, too, is that, if you'll
2 recall, I asked Dr. Worrell last week, "How many of those
3 seven gunshots wounds were fired into his back?" Four out
4 of seven gunshots wounds were fired into the back of his
5 body. Well, what does that tell you? Derrick Jones was
6 running away for his life. He was running away from the
7 defendant who continued shooting him -- not once, not
8 twice, but a total of seven times, leaving -- leaving that
9 in his wake. He shots him in the ear, in the hand, in the
10 arm. But why does he keep shooting? To kill him. He's
11 got to keep shooting him until he makes sure that he dies.
12 While he doesn't die at the scene, he dies a few hours
13 later at the hospital, but he was already so far gone when
14 detectives got there, he couldn't even talk at that point
15 or barely breathe.
16 He also shows malice aforethought and a
17 deliberate intention to take away human life by shooting
18 repeatedly into the body of Jason Moore. And, again,
19 what's very interesting about the death of Jason Moore is
20 that Jason Moore is actually shot outside the apartment.
21 According to Lazon Jones, he was inside the apartment.
22 When the shooting happened and Lazon runs out, the last
23 thing Lazon remembers is that Jason and Derrick were
24 hiding behind the couch. That's when he runs out. So
25 when Jason Moore is actually shot, he's outside on the

1 balcony, probably also trying to get away. He shot not
2 just once, but three times. And we know that the
3 defendant is moving, following him, because we see the
4 blood, we see the cartridge cases, and we have the
5 testimony of where the defendant started in front of the
6 front door, and where he ended up toward the corner with a
7 large pool of blood by the wall, where Jason Moore finally
8 expired.
9 Certainly, we know that the defendant was not
10 injured. He was not bleeding. The blood on those stairs
11 was blood belonging to Derrick Jones when the medical
12 personnel took him outside; you know, in the stretcher.
13 It didn't belong to the defendant. There's no evidence
14 that anyone else was armed inside that apartment. There
15 was certainly no provocation, legal cause, or
16 justification to kill three people over a half pound of
17 weed. We certainly have malice aforethought, express
18 malice in this case.
19 I want to spend some time with Instruction
20 Number 7, because Instruction Number 7 is extremely
21 important, and there's a lot there that's contained within
22 that Instruction. And, basically, it is what is required
23 to find someone guilty of the first degree. There's three
24 elements that have to be proven to find somebody guilty of
25 this offense. And those are: Willfulness; deliberation;

1 and premeditation. And I want to take each one of those,
2 one at a time.
3 Willfulness, first of all, is the intent to
4 kill. And it states in the second paragraph there need be
5 no appreciable space of time between formation of the
6 intent to kill and the act of killing. So, first, with
7 regard to willfulness: Do we know that this defendant had
8 the intention to kill, first, Dajon Jones? Well, as I've
9 already stated, we do know that he had that intention.
10 And why is that? Well, first of all we know that he
11 brings a loaded nine millimeter weapon with him into that
12 apartment. We also know that it was hidden. We don't
13 know whether or not he hid it in the apartment beforehand
14 or whether he had it when he came back from that 15-minute
15 drink break; but we know that Lazon Jones certainly had no
16 idea that he had a weapon or a gun.
17 Lazon Jones thought that the defendant was his
18 friend. They played basketball together. He had no idea
19 that something like this would happen. But the defendant,
20 after hanging out with them all day, decided to come back.
21 And he's got a gun. And he doesn't just walk in and go to
22 the rest room, like he said to Lazon. He immediately
23 directly goes right into that bedroom. And within just a
24 matter of seconds, all of a sudden you hear the two
25 gunshots.

1 We also know that three -- if three shots were
2 fired, Dajon was only shot two times in the neck. And we
3 know that something happened in between the second and
4 third shots. How do we know that? Because Lazon hears
5 the defendant say, after the second shot, "Where's my
6 stuff at?" Well, one of those shots went out the window.
7 So, you can infer that this defendant shot out the window
8 or shot Dajon one time in the neck, still had yet to shoot
9 him the second time in the neck, and that was the third
10 shot that he fired. He did not need to fire those shots
11 into his neck. He fired those shots in that location with
12 the intention to kill him.
13 If you want to make sure somebody is going to
14 die from one of the gunshot wounds, you're going to shoot
15 him: Heart, neck, head. We also know it was at close
16 range. His body showed that, and there is no way that he
17 would have shot him a second time if his intention was not
18 to kill him.
19 Certainly, the same argument is obvious with the
20 victim of Derrick Jones. Derrick Jones was shot seven
21 times. Certainly, he showed the intention to kill an
22 individual when he has to shoot him more than once, more
23 than twice, and a total of seven times as he's trying to
24 run out of the apartment. He also shots Derrick Jones in
25 the head. He shoots him in the head or neck, as well as

1 Dajon.

2 Now, with Jason Moore, he's also shot once in
3 the neck, once in the head, and I also, I believe, once in
4 the back shoulder, again shooting him more than once and
5 in location calculated to cause death show that he
6 definitely meets the element of willfulness and intended
7 to kill all three victims.

8 Now, deliberation is the process of determining
9 upon a course of action to kill as a result of thought,
10 including weighing the reasons for and against the action
11 and considering the consequences of the action. Now,
12 what's important is that a deliberation, or a deliberate
13 determination, may be arrived at in a short period of
14 time.

15 This is not something where you have to sit at
16 your desk and write a list of pros and cons for murdering
17 somebody. This isn't the kind of thing that you've got to
18 sit around and think about for two weeks. That is not the
19 law. The law is, that it can be arrived at in a short
20 period of time. And it goes on to say, in all cases it
21 may not be formed in passion.

22 Now, certainly, you can't have a rash -- it says
23 here, "A mere unconsidered and rash impulse is not
24 deliberate." Well, even if you could even possibly argue
25 that the first shot at Dajon Jones was a rash impulsive

1 act trying to find out if he stole his weed or who on
2 stole it, even if you could possibly think that first got
3 shot was rash and considered, certainly after he continues
4 to shoot him and then when he moves on to his second and
5 his third victim, that even possible argument goes away,
6 clearly. So, this is not a case where you have an
7 unconsidered and rash impulse.
8 And this defendant most certainly had been
9 thinking about it for some time. Because what do we know
10 the defendant was thinking about all that day, at least?
11 We know for a fact he was thinking about who stole his
12 half pound of weed. We know that because he was wondering
13 it earlier in the day when they were playing basketball,
14 because he confronts Derrick about it. We also know his
15 intent because he actually tells Jason, "I'm not going to
16 fight you. I'm just going to put some slugs into you."
17 that was over a basketball foul. All that stuff is going
18 through this defendant's head the day immediately
19 preceding the murder.
20 And we also know that he says, "Where's my stuff
21 at?" before he shoots Dajon for the third time; the second
22 time striking his body. So, we know that he has been
23 conducting the deliberation that is necessary in order
24 find him guilty of first-degree murder.
25 Now, he also is methodically making his way out

1 of that apartment. But I do want to point out that as he
2 is trying to flee that apartment, he doesn't just shoot
3 Dajon JOnes and then try and get away. I mean, Jason and
4 Derrick don't have guns. They certainly didn't have to
5 die. But as he is making his way out of that apartment
6 and running down those stairs, he continues to shoot and
7 kill all of the remaining occupants in that apartment. He
8 shoots and kills them; and by all indications, according
9 to the testimony of Greg Lewis, and the rap song that he
10 writes, he should have killed four. But he let Lazon
11 Jones get away.
12 Certainly, the defendant acted with deliberation
13 in this case. And he also acted with premeditation, and
14 that is the final element. Premeditation is a design, a
15 determination to kill distinctly formed in the mind by the
16 time of the killing. Premeditation need not be for a day,
17 an hour, or even a minute. It may be as instantaneous as
18 successive thoughts of the mind.
19 This is how instantaneous it can happen. He
20 holds that gun out. He shoots Dajon the first time. When
21 he shoots him the second time, he is making the choice to
22 kill him. He could have stopped shooting. He could have
23 let Dajon live. He could have stopped and not shot
24 Derrick Jones the first time. He could have not shot
25 Derrick Jones the second time, the third time, the fourth

1 time, the fifth time. He had a choice and he made that
2 choice to kill his first victim, to shoot and kill his
3 second victim, and then to shoot and kill his third
4 victim. That is premeditation. He planned these murders
5 by bringing that gun, hidden on his person, into that
6 apartment, and continuing to shoot all of them until they
7 were dead. And he would have continued, had he not seen
8 them lying slumped on the ground.
9 And we also know about his premeditation from
10 the rap song that he writes and sends to Greg Lewis. This
11 is what Greg Lewis testified he received in the mail from
12 the defendant. This was in a letter where the envelope
13 was addressed to him, "from Budd." He recognized his
14 handwriting, because he had seen the defendant try and
15 write these rap lyrics before.
16 And then he also compared the lyrics in that rap
17 song to the translation that we had tried to make in order
18 assist you, as well as all of us. And in that rap song
19 are facts that are curiously identical to the facts in
20 this case, and tell you exactly what this defendant
21 intended to do. And this letter clearly shows that he
22 also premeditated these crimes. Because, as you heard, he
23 said, of course, "I only killed three, but I should have
24 killed four. Left them dead on the floor, but just right
25 before they was crying and pleading, screaming for Jesus.

1 You all can keep the weed 'cuz you can't smoke it now."
2 That shows that even though the State doesn't
3 have to prove motive, the Instruction also tells you you
4 can consider that as a fact and circumstance in this case.
5 And this defendant, for what it's worth, thought a half a
6 pound of weed was worth the lives of a 14-year-old boy and
7 two 19-year-old boys.
8 Now he tries to get away from the police. He
9 tried to flee the scene. He tried to hide in different
10 houses across town. He tried to change his appearance by
11 cutting off his hair and trying to look like a different
12 person, but he couldn't escape his ultimate capture by the
13 police, and he shouldn't escape full responsibility for
14 all of his crimes; his crimes against Dajon, Derrick, and
15 Jason.
16 Find him guilty of three counts of first-degree
17 murder with use of a deadly weapon. Thank you.
18 THE COURT: Thank you. Ms. Pandukht.
19 Mr. Brooks?
20 MR. BROOKS: Judge, before I start, I'm going to
21 need State's Exhibits 49A, B, and C, and State's Exhibit
22 50, and the diagram of the apartment. I don't know what
23 the exhibit number is on that.
24 (Brief discussion held off the record.)
25 ///

1 CLOSING STATEMENT BY THE DEFENDANT

2 MR. BROOKS: May it please the Court, counsel,
3 ladies and gentlemen of the jury. The evidence is in and
4 now it's time to talk about what precisely the evidence
5 that was that came into this courtroom through that box
6 right there, means. More important, we're going to talk
7 about how to take the law and apply it to that evidence to
8 render a fair verdict.

9 Before I start, I want to say something that I
10 said before in my opening. That is, that nothing that I
11 say in these moments or during the course of this trial is
12 intended in any way to suggest that a tragedy did not
13 happen. The taking of human life is always a tragedy.
14 And in this case, the deaths of three young people is an
15 incredible tragedy. And please do not think that myself
16 or Mr. O'Brien are being callus because of our prominence
17 in this trial.

18 We are not here right now to talk about tragedy.
19 We are hear to talk about evidence, law, and
20 responsibility. The question now before you is this: Has
21 the State proven beyond a reasonable doubt that my client
22 killed these three men?

23 When you took your oath as a juror, you agreed
24 to follow the law. And the law is that my client,
25 Glenford Budd, is presumed innocent. And the burden of

1 proving this case is the government's. They must prove
2 their case beyond a reasonable doubt.
3 People often say there really isn't a
4 presumption of innocence in these kind of cases. Some
5 people say, "Well, if the State has brought the case to
6 trial, surely there must be something there." In fact,
7 you may have heard other jurors say this during the course
8 of jury selection. Well, the fact is, the presumption of
9 innocence and the burden of proof are only as real as you
10 make them real. It's your job in this case to look at
11 their evidence and test it, question it, doubt it, and see
12 what the truth really is. Apply the burden of proof to
13 every fact, every bit of testimony, every inference, and
14 that's how we get a fair verdict.
15 Let's talk about the facts. I would be insane
16 if I didn't stand before you and say that some people may
17 believe, right now, the State's proven Glenford killed
18 these kids. And I have to deal with that reality. So,
19 I'm going to talk about, first, what the evidence means,
20 if you believe the State has shown that Glenford did, in
21 fact, kill those three boys. But please understand I am
22 not conceding this in any way, shape, or form; and we'll
23 talk about that later.
24 With this evidence, and considering the
25 presumption of innocence and the burden of proof, I submit

1 to you the State has only proven, theoretically,
2 second-degree murder; three counts of second-degree
3 murder.
4 Now, why do I say that? The difference between
5 first- and second-degree murder is about what is happening
6 in Glenford's head. It's about the person's intent. It's
7 about whether he is thinking about what he is doing.
8 The law in Instructions 7 and 8 tell you that a
9 killing is a deliberate killing if the defendant uses his
10 mind to determine upon a course of action, and he weighed
11 the reasons for it and against it.
12 The State has shown absolutely not one shred of
13 evidence in this case that Glenford committed a
14 premeditated and deliberate killing. These people were
15 his friends. He hung out with these people. These are
16 kids. They played basketball together. They smoked
17 marijuana together. These were not enemies. This is not
18 someone where he would stand back and say, "I've got to
19 kill these people." This is in the realm, ladies and
20 gentlemen, of classic unpremeditated murder, if it is
21 murder at all. This is a case where not only was there no
22 weighing the benefits and the bad points of killing these
23 people, I'm not sure there was any thinking going on at
24 all.
25 Mr. Kane, in his opening, said that one of the

1 witnesses would testify that Glenford said he snapped.
2 What does that mean? The dictionary says to snap is,
3 "done, made, or carried through suddenly or without
4 deliberation." No real thinking process. No plan. No
5 considered judgment about what was happening. A person
6 snapping and doing something that in this case was
7 obviously horrible, obviously criminal and wrong, but
8 certainly not premeditated and deliberate.
9 Under our law, a snap decision is not
10 first-degree murder. There might be an intent to kill,
11 evidenced by the use of a gun, evidenced by the repeated
12 shots. And that would be murder. But it's not
13 first-degree murder.
14 I want to emphasize that the language in the
15 instructions is confusing. You're going to read the
16 Instructions -- there's an Instruction, and Ms. Pandukht
17 referred to it -- that premeditation and deliberation can
18 occur in as little as successive thoughts of the mind;
19 whatever that means. Has there been evidence in this case
20 about which thought was in his mind here and which thought
21 was in his mind there? I submit to you there's been no
22 evidence by any thinking going on in this young man's mind
23 at all. And I estimate to you that the idea that we're
24 glowing to talk about, how successive thoughts of the mind
25 occur is theoretical nonsense. In this case, ladies and

1 gentlemen, there was no thinking.

2 It's interesting. There was evidence here that
3 these boys were smoking marijuana together. Is that what
4 you do before you make an important decision? Do you get
5 high on marijuana? Is that what a brain surgeon does
6 before he does brain surgery; he gets high on marijuana?
7 You know the answer to this. Marijuana is about muddled
8 thinking. Marijuana is about the absence of thought.
9 It's not about clear thinking.

10 If Glenford Budd killed these people, then,
11 ladies and gentlemen, this was a second-degree murder
12 case. It's a tragedy, a horrible tragedy, and
13 second-degree murder is a serious crime, especially three
14 counts of it. These were impulsive acts, and they should
15 be punished as impulsive acts.

16 But I am going invite you now to not step back
17 from the evidence, as we've just discussed. I want you to
18 focus in on the evidence, and I want you to focus in real
19 closely, and look and determine what the State has really
20 proved in this case. There's an old saying that "As time
21 goes by, the truth comes together. And as time goes by,
22 false things fall apart." And I want you to consider if
23 the State's case holds together, so you can be certain
24 that you know what happened, or does it begin to fall
25 apart and shred, in a way to suggest that we're not